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Senate

The Senate met at 10 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Almighty God of love, whose plan for history is to unite all things in You, bring unity to Capitol Hill. We do not ask for uniformity, with its leveling process that reduces everything and everybody to its lowest common denominator. We ask for true unity, with its bountiful diversity in which each person finds individual fulfillment in the community of love. Lord, give our Senators unity like the symphony with its variety of instruments, its many different notes which produce grand harmonies. May our lawmakers produce these melodies by seeking to understand before being understood, to console before being consoled, and to serve before being served.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 11, 2009.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The Senator from California is recognized.

THIS RECESSION

Mrs. BOXER. Madam President, I would like to take this time to bring us up-to-date on where we stand with this recession, nationally and in my home State, and also to alert the American people to something.

In 1993, when Bill Clinton got elected, this country was in a lot of trouble. We had terrible deficits—we had a terrible trade deficit, we had debt. President Clinton and the Democratic Congress came in, and we said we have to get our country back on track. The President put together a budget. I wish to remind people that budget did not get one Republican vote. I wish to read to you what Senator Lott, on August 6, 1993, said about that Clinton budget.

As we all know, that Clinton budget got us on the path of deficit reduction and an actual surplus in our fiscal year budget. It set us on the path of debt reduction. As a matter of fact, we were far along on that path. We expected to have no debt whatsoever. When George Bush got in office, the Republicans took over and the deficits soared and the debt soared.

I wish to read what Senator Lott said in 1993. Remember, it was a very similar situation in terms of a budgetary crisis, a fiscal crisis. When Bill Clinton's budget passed—and we helped him get it passed—we set off on a path of economic recovery that was unmatched. Listen to this. This is Senator Trent Lott, August 6, 1993, in opposition to the Democrats' economic plan:

> This is a pork alert: Pork alert. This bill is 1,800 pages. We will not know until next April 15, probably, all the stuff that's in here. Are we talking about a little money? . . . No, we are talking about big sums.

He says:

> So when you stand up and say Republicans have not been involved, let me assure you, we should have been involved. We would have liked to have been involved. But we would like to concentrate on spending cuts at first. And then talk about other things like economic growth incentive activities, that we would like to see considered in this process.

The Republicans who have been in charge for a very long time have been the party of ''no'': Do it my way or it is the highway. Only I can write the perfect bill.

I have said, and I say this respectfully to my friends, I could write a perfect bill—for me. I can assure you the people of California would like my bill better than the bill that is before us. Each of us can stand and write the perfect bill.

So we have a choice. We can allow this new President to have the opportunity to do what he said he would do during the campaign, which is to ensure that this National Government becomes part of the solution.

Believe me, I defend my Republican friends' right to say no, no, no. They have every right to do it. They have absolutely every right to do it. What I feel a little sad about is they feel they have to filibuster; each and every time

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

we have to get 60 votes—60 votes—60 votes—because they know very much it becomes a hardship. But that is what they are doing.

I ask unanimous consent to have this and another quote printed in the RECORD.

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

(See exhibit 1.)

Mrs. BOXER. In 1993, when they opposed the Democrats' economic plan, back then, that plan that set us off on economic recovery and economic prosperity, they said almost the same exact words: We are not involved, it is pork, it is this, it is that, it is a big bill. They held up the bill.

It is all the same. It is not the GOP; it is the SOP, the ''same old party.'' Right now we can't be the same old party.

Democrats can't be the same old party, Republicans can't be the same old party.

We need to join together. I hope more of my colleagues on the other side will join us. I thank the three who have, and I look forward to working with them as we move out into the future.

EXHIBIT 1

1993 QUOTES

Last, the American people should know unequivocally this plan does not reduce our long-term deficit. What I am suggesting is, if you like these taxes, wait around because the deficit starts back up in 1998 even with all of these taxes and more will be needed. And I ask where are we going to get the spending cuts and the money to bring it under control? My guess is more taxes year after year.—Senator Packwood August 6, 1993

This is a pork alert: Pork alert. This bill is 1,800 pages. We will not know until next April 15, probably, all the stuff that has been slid in here. Are we talking about, oh, just a little bit of money? A few million here and there? No; we are talking about big sums.

So when you stand up and say the Republicans have not been involved, let me assure you, we should have been involved. We would have liked to have been involved. But we would like to concentrate on spending cuts at first. And then we can talk about other things, like economic growth incentives, that we would like to see considered in this process.—Senator Lott August 6, 1993

RECOGNITION OF THE REPUBLICAN LEADER

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

THE STIMULUS

Mr. MCCONNELL. Madam President, yesterday the Senate cast one of the most expensive votes in history. We have heard a lot from our friends about the dangers of deficits over the last few years. Yet the Senate this week voted to spend more than $1.2 trillion, including interest, over the next 10 years. The projected annual budget deficit for this particular fiscal year is also $1.2 trillion. We are told, of course, this is just the beginning. We have known for weeks the Treasury Secretary is planning a financial rescue plan. We still don't know the cost. Apparently, the sticker shock would have been too much to take, 1 day after the Senate voted to spend $1.2 trillion on a stimulus—all of this on top of the $400 billion Omnibus appropriations bill we will soon vote on, which will bring discretionary spending for the Federal Government for the very first time to over $1 trillion this year.

Americans are wondering how we are going to pay for all of this. Judging by the market reaction to Secretary Geithner's announcement yesterday and the newspaper editorials this morning, it is clear everyone is looking for a little more detail. With that in mind, the importance of a thorough review of the administration's budget is all the more important, so we know the totality of what the administration is asking of taxpayers.

Any parent knows you don't buy a new car and plan the summer vacation before you set the family budget for the year. I think Americans would like to know exactly how the administration plans to pay for all these things in the context of all the normal annual spending.

In the 24 days Congress has been in session this year, Congressional Democrats have agreed to spend more than $50 billion a day. Americans know they have a limit on their spending. This week they are wondering what the Government's limit is.

ENERGY PRODUCTION

Mr. MCCONNELL. Madam President, our new Secretary of the Interior has weighed in on developing American oil and gas resources located on our Outer Continental Shelf. As the process moves forward, it is my hope he will be mindful that hindering the growth of responsible domestic energy production means hindering an increase of American jobs at a time when many people are out of work. It also means hindering America's dependence on foreign oil, which has a direct impact, of course, on the price of gasoline.

Last summer, Congress heard from Americans, and I heard from countless Kentuckians, demanding a balanced approach to our energy problem that includes boosting American energy production as well as conserving what we already have. I hope the Secretary of Interior will keep the views of the American people in mind as we go forward.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

THIS RECESSION

Mr. DURBIN. Madam President, you know in your State of New York and I know in my State of Illinois what this recession really means. In December, the recession hit my home State of Illinois hard. We lost 1,200 jobs a day in the month of December—36,000 jobs. That is a hit that continues, I am afraid, in the month of January and maybe even in the early part of February. The overall unemployment rate for America is 7.6 percent. Madam President, 3.6 million jobs have been lost since the beginning of the recession several months ago. Clearly, that is the element which is driving our discussion now about what to do.

There are some on the other side of the aisle in Congress who argue that the best thing to do is nothing, let the economy solve its own problems. But, sadly, many of us are meeting the casualties of this recession, and many of us know them personally because they are in our families.

I talk to a lot of my friends who are struggling. It does not sound like much, you know, when they say: My hours have been cut back. A friend of mine, a lady who is raising three children, a single mom raising three kids, had her hours cut back. Her agency does counseling for drug addiction. So she is only working three-quarters of the regular time she was expecting. Well, as a result of that cutback in her pay, she could not pay her rent, and, sadly, she is now facing some of the hardest decisions of her life. So just a cutback in pay for many people who live on the margin makes all the difference. And then, of course, there are those who lost their jobs altogether. Many of those people find they stand the possibility of losing their homes. They cannot make the mortgage payments, and they are facing foreclosure. Their savings that have been devastated by the decline in the stock market have now become the only place to turn. They have had to make serious decisions.

I talked to groups of college presidents from Illinois who came to see me, and some of them, community colleges. The colleges and universities are struggling because a lot of students are sitting there saying: I cannot keep going to school. I mean, dad lost his job and mom is working, and I am a big drain on their savings at a time when they do not have it. So colleges and universities are scrambling all over the campus to try to get people to stay in school. They are afraid they are going to lose them. Community college representatives who came to visit me yesterday said, incidentally, their enrollment is up because a lot of the students say: I can no longer go to the expensive other school, so I am going to come back and do community college courses and try to keep up with it.

Lifestyles are changing. People are making decisions; some of them we hope will be temporary, some may not. That is what troubles me when we look

at the debate in Congress. There are so many people who, I am afraid, are removed from this. It really would do a lot of Senators some good to get in touch with the real world out there and what people are going through. We are somewhat insulated in the life we lead, and we have to overcome that because the people who are the casualties and victims here are the ones who should be remembered when it comes to these votes.

Now, President Obama inherited this. I am not going to dwell on the mistakes and miscalculations of the previous administration. That is a matter of record. There is no point in going into that. That was yesterday. We need to talk about today and tomorrow. What are we going do about this?

What the administration, what the President wants to do is to make sure we do not stand back as spectators and watch this collision that is occurring, destroying a lot of lives and a lot of people's hopes. So he came to us and said: We have to breathe some life into this economy. We think that this year in America, $1 trillion less will be spent on goods and services, $1 trillion taken out of the economy. What happens? Shops close. People are laid off if there is not economic activity. So what the President has said is: Let's infuse back into the economy government spending now to try to make up for that and to try to get us moving forward.

Now, I understand—and we all have to be honest about this—that the money we spend on this stimulus is money added to our Nation's debt. But failing to do anything and allowing this recession to continue to go downhill will increase our Nation's debt anyway and, of course, will add to a lot of suffering by families and businesses. So the President came forward and said: Let's focus on several things. First, let's provide tax relief to working families. They are struggling. They need a helping hand. Let's provide help in a safety net, a little more money for people who are unemployed, $25 a week. For anybody who thinks that is a huge amount of money, that is $100 a month for people unemployed. For most of us, that does not mean a lot; for people struggling to get by, it could be important.

Also, there is some help when it comes to continuing health insurance. That is one of the first things that happen when you lose a job—you lose your health insurance. The COBRA program allows you to turn to Government help for that, but it is darn expensive if you have to pay both the employee and employer share. So we are trying to provide a helping hand when it comes to the folks who have lost their health insurance, giving them a little bit of help so their families are not left defenseless to the next diagnosis or the next disease.

Then we add, for the poorest of the poor, those who are struggling the hardest, help with food stamps. You know, if you keep track in your own community, you are going to find that a lot of pantries and church-run efforts to help feed people have more folks showing up than ever. Even those who are working part time are struggling to put food on the table. So we provided additional help when it comes to this supplementary feeding program to help families who are struggling the hardest.

I have often used this statistic, but I still marvel at the fact that one out of eight people in the State of Michigan is on food stamps—one out of eight. It shows you what has happened to their economy, and, sadly, many of our States are following in terms of our own needs.

So we have the tax cuts for working families, we have this safety net, and the President has also asked us to put money into spending that will not only create jobs but make an investment in America's future.

Transportation is the obvious thing to turn to, but it goes beyond that. President Obama would like to see us put more money into building libraries, laboratories, and the classrooms of the 21st century, modernizing schools so they are energy efficient, reducing the cost of energy. That is a good investment for families, and it is a great investment for schools. The President wants money to go in, as well, to health technology so we start computerizing medical records across America. That is a first step in bringing medical care into the 21st century. With computerized records, doctors and nurses are less likely to make mistakes. They are more likely to have all the information they need before they make a diagnosis and suggest a treatment. It will reduce the cost of medical care and reduce the number of mistakes made, which is very important. That is money well spent.

The President focuses on energy. He is right to do so. We have to understand, as long as we are dependent on foreign nations for our major energy sources, we are at their mercy. We saw it happen when gasoline was over $4 a gallon, and it could happen again. We have to be thoughtful in the way we move forward in this economy, creating jobs but looking for more energy efficiency, more energy independence. That is part of the President's goal.

Yesterday, Secretary of the Treasury Mr. Geithner came forward with a plan dealing with banking institutions. It is a complex problem, and it is a multifaceted response. It tries to get at the heart of these banks that, sadly, have portfolios riddled with mortgages that have been overvalued. We have to get to the bottom line so the banks have solid balance sheets and the people have more confidence in them and, importantly, the credit being offered by these institutions starts coming forward so businesses, large and small, individuals buying homes or automobiles, have a chance.

It is a big agenda, and there are a lot of people on the other side of the aisle who say: We shouldn't do any of this. What are we doing this for? The economy will fix itself.

I disagree. The American people expect us to find solutions, do our best to come up with good-faith efforts to find solutions. They expect us to work together and not squabble, to try to find give-and-take that leads to a good solution. They want to make sure there is accountability. They are mad—I am too—that $350 billion was spent several months ago for the so-called TARP, and at the end of the day, a lot of people said: How much did they spend and what did it do?

That is taxpayer dollars. We have a responsibility to be transparent and be held accountable as part of that. They certainly expect us to do this on a timely basis. They don't want Congress chewing over this issue for weeks and months while the economy continues to decline.

Some have suggested: Are you saying this is going to work? Is this perfect? The answer is, no; I am not sure. But if we do nothing, I know what will happen. It is going to get progressively worse, where more people lose their jobs, more businesses fail, more families suffer, and we will see a spiral head downhill and continue not only in the United States but around the world. That is why what we are doing in the stimulus program is so important, that we get it done. As we speak, last-minute negotiations are underway for the stimulus bill. I hope we can get it done even today to send a clear message across the United States and maybe to the rest of the world, as they are paying attention, that we take it seriously. We are not going to buy into a Herbert Hoover mentality that everything will get well if we leave it alone. It is not going to happen.

This patient, the American economy, is in serious need of attention now. We need to apply the tourniquets to stop the bleeding. We need to make a good diagnosis and order the medicine and treatment that is essential. It has to be done in a timely fashion. I encourage my colleagues to come together. Fortunately for us, three Republicans stepped forward in the Senate and joined this effort. We could not have done it without them. We have listened to them. We have accepted their counsel. We have made changes and compromises. We have tried to work together. I invite even more to finally realize that just standing back and saying: No, I will not do a thing, isn't going to solve this problem. We are expected to work together.

We understand what led up to this; we don't want to dwell on the past. But we want to look forward to a new America that gets back on its feet using the spirit of this country to restore the economy and get us moving forward again.

Mrs. BOXER. Will my friend yield for a few questions?

Mr. DURBIN. I am happy to yield.

Mrs. BOXER. I was thinking the other day to when we had another difficult crisis of confidence in the economy in 1993, when Bill Clinton was elected and we had deficits as far as the eye could see and debt as far as the eye could see. Things were slowing. We were in difficulty. A new President came forward, Bill Clinton, and we had the Congress, the Democrats did. We passed a budget. We did it without one Republican vote. Thank goodness here we have three. We have the 60-vote supermajority Republicans are insisting upon. If you remember, it was Senator Bob Kerrey who had to think long and hard and decided to support that.

I wonder if my friend remembers because I just looked up some of the comments made by the Republicans. I read into the RECORD one of them by Trent Lott. He said: We have not been involved in this. This is going to be a disaster. This is awful. They said: No.

I wonder if my friend knows about the Clinton economic record: 23 million new jobs created during the 8 years of the Clinton Presidency; the largest surplus in history was left behind by President Clinton, over $230 billion; unemployment rates were the lowest in three decades; there was the lowest overall poverty and child poverty rate since the 1970s.

Does my friend remember that battle and how we Democrats had to do it all by ourselves?

Mr. DURBIN. I remember it well because I was serving in the House at the time. When we called the Clinton plan to try to reduce the deficit and invigorate the economy, we did not have a single Republican who supported us. When it came to the Senate, it passed because Vice President Gore cast the deciding vote so it could go forward. That is the reality. There were many skeptics. You mentioned Senator Lott. There were others who said: This isn't going to work. The best thing to do is nothing. Sadly, they were wrong. They should have known they were wrong. We ended up seeing a surge in economic growth, the likes of which we have not seen in modern times.

I think right now we are in a slightly different situation because we are not talking about a big economic surge. We need to stabilize the economy. That is the key. I am afraid many of the people who are criticizing President Obama's efforts are not in touch with what is going on at home.

I watched this morning, as I am sure the Senator from California did, as President Obama went to Ft. Myers, FL, and talked to two particular people. One was Henrietta Hughes, who said: I am living in my car. I am a homeless person. What I wouldn't give to have my own kitchen and bathroom. Can you help me?

Sadly, a lot of people are homeless today. The President reached out, embraced her, and said: We will do what we can. Someone in the community stepped forward.

Another fellow said: I have been at McDonald's for 4 years. McDonald's is a great Illinois corporation, but the fact is, he wants benefits. He wants improvement in wages. You see a lot of people struggling and falling behind. If we don't stabilize this economy, that group is going to grow—people losing their homes, people in jobs that don't even sustain them.

What we are doing is a leap of faith. We are saying: We believe in this President. We believe in this last election where the people said they wanted change. We are going to stick with this President and move forward. We hope some Republicans will join us this time.

Mrs. BOXER. I think my friend is so eloquent as usual. The point I am trying to make is, we faced a serious economic problem in 1993, when a Democratic President took over. You are right. Things are way worse, and it is a different circumstance. But the same thing happened then. We had Senate leadership, Senator Lott saying, on August 6, 1993: This is a pork alert, pork alert. It is 1,800 pages. We are talking about big sums. He said: We have to concentrate on spending cuts first.

They predicted gloom and doom. What happened was the greatest economic recovery in modern history because we took a chance. We followed the wisdom of many economists at the time. We know now that if the Republicans would just join with us, we can get this economy moving in the right direction. A trillion dollars has been taken out of the economy due to lost productivity. Who is going to put it back? The banks won't. We are the only ones who can put it back. It is not going to be a trillion. It is probably under $800 billion. But it is the way to go forward.

I agree with my friend. I am so glad President Obama is out there. Doesn't he agree—and this is my last question. Then I will do a presentation about what is happening in my State—that it is important for the President to get out there, not to a group of people who have been prescreened, who are all his admirers, but actually to get there with all these people who are troubled? They are worried. They have hope and faith, but they are scared. It gives him a reality check rather than listening to what goes on around here because I am afraid the GOP, the Grand Old Party, has turned into the same old party, the same old negativity we heard in 1993 when we had another Democratic President get us on the right road to an amazing recovery. It is sort of the same old thing.

I wonder how my friend feels about our President getting out among the people.

Mr. DURBIN. The Senator from California knows the President, before he was elected, was my colleague for 4 years in the Senate. Every Thursday morning at 8:30, then-Senator Obama and I would get together for a town meeting which we opened to people who came to Washington. Originally, it was for people from Illinois who came to Washington. Then when I saw the crowds growing with my colleague, Senator Obama, I suggested those who wish they were from Illinois or just those who want to see Barack Obama. We would have a huge room full of people. Many of them were fans and admirers. But I watched Senator Obama field questions then.

During the campaign I saw the same thing. This is risky business about which politicians are warned: Don't walk into that crowd that has not been prescreened because they are going to throw you curve balls. They will criticize you. It could get tough and out of hand. Be ready.

He is ready because he has been tested. He was tested as a Senator, certainly tested 2 years on the campaign trail. It is downright refreshing that he walks in and has somebody hold up their hand and he doesn't know what is coming. This could be a person who would never consider voting for him, a person who disagrees with him completely, and he is prepared to hear that. That is a refreshing change in American politics. I hope he sticks with it. I think he will.

The fact that he is going to communities that are suffering—whether it is Elkhart, IN, or Ft. Myers, FL—he is doing his best, as Presidents are generally isolated in the White House and away from most of the people, to get back in touch. I hope our colleagues will do the same, whether they go to New York or California or Illinois or Florida. Go out and talk to the folks.

In my hometown of Springfield, my wife came in Sunday and said: I was just driving down South Grand Avenue, and there was a young woman standing there with a sign saying: I am out of work. Can you help me feed my family?

This was in my hometown. That is an eye opener. There are people like that. But she was so desperate she stood out by the side of the road asking for help. That is happening.

We have to do something about it. The answer is not to ignore it. The answer is not to do nothing. The answer is to do our level best to find a solution so we can have our best efforts, working together to find a way, an accountable way, to get the economy moving again.

I yield the floor.

Mrs. BOXER. What is the order now?

The ACTING PRESIDENT pro tempore. The Senate is conducting morning business, and the Senator is authorized to speak for up to 10 minutes.

The Senator from California.

Mrs. BOXER. Madam President, I want to pick up on where I left off. This is the same old, same old fight again. I looked back for some more quotes on the Clinton economic plan which led to 23 million new jobs, the longest period of peacetime economic expansion in American history. I read what Senator Lott from the other side said about it.

Here are other Senators: We are going to pile up more debt. We are

going to cost jobs. That was Senator Conrad Burns.

What happened? We went into surplus, and we created 23 million new jobs.

ORRIN HATCH:

Make no mistake, these higher rates will cost jobs.

That was because there were some tax hikes on the wealthiest few. It went on and on.

This is Phil Gramm, the guru of the other side:

I want to predict here tonight that if we adopt this bill the American economy is going to get weaker and not stronger, the deficit four years from today will be higher than it is today and not lower. . . .

He was wrong. This is no longer an academic debate. The Republicans, in 1993, said the same things about the Clinton plan they are saying about the Obama plan.

Phil Gramm again:

I believe that hundreds of thousands of people are going to lose their jobs as a result of this program. I believe that Bill Clinton will be one of those people.

Well, Bill Clinton got reelected. Twenty-three million new jobs were created. He left behind the largest surplus in history. Unemployment rates were the lowest in three decades. We had the lowest overall poverty and child poverty rates since the 1970s.

CHARLES GRASSLEY, my colleague:

I really do not think it takes a rocket scientist to know this bill will cost jobs.

That is what he said of the Clinton plan that created 23 million new jobs.

Connie Mack from Florida, from the other side of the aisle:

This bill will cost America jobs, no doubt about it.

Senator William Roth, from the other side:

It will flatten the economy. I am concerned about what it will do to our families. . . .

Well, what did it do to our families? The Clinton plan, with the Democratic support, created 23 million new jobs, left behind the highest surplus in history, unemployment rates were the lowest in three decades, and we had the longest peacetime expansion of economic expansion in history.

Rick Santorum, from the other side of the aisle:

. . . bad policy. Let's do something that creates jobs that doesn't feed the monster of government.

It goes on and on, and later today I will read some more into the RECORD.

So as I was listening to the debate yesterday and the day before and the day before—it has been good—I had a sense of deja vu. I heard this before. I turned to my staff and I said: Can you go and find out what the Republicans said about Bill Clinton's economic plan that was so successful? We did not get one Republican vote. Thank God we are getting three Republican votes for this plan because they have set a 60-vote filibuster-proof vote. That is what we need, which is a shame, but that is the way it is.

So what I would like to do today, again, is make the point that Republicans and Democrats have a philosophical disagreement. They had it back in 1993. We tested who was right and who was wrong. We put in the Clinton plan. We got a great economic recovery. We got surpluses as far as the eye could see. We had the debt going totally down.

When the Republicans took over, the deficits soared, the debt doubled, and we have now on the backs of the American people—every man, woman, and child—$17,000 more in debt as a result of an open checkbook for Iraq and tax cuts to the millionaires and the billionaires who never needed it anyway. That is a fact. It has been proven. There is no debate over it.

I have what the Republicans said back then, and I know what happened to the economy. So if you are looking for past history to guide what we do today, it is time to step to the plate and support President Obama. He has learned from history. He has looked at what happened. He understands.

So I want to take us now to where we are in this recession: 3.6 million jobs lost since the beginning of the recession. I want people to think about 3,600,000 people. Think about your own community, how many people live in that community. Think about your own State, how many people live in that State. Think about what it means to have these many people unemployed, and think about what it means for their families, for their spouses, for their children, in the face of this. Doing nothing is not a passive act. It is a hostile act. It is a hostile act because doing nothing says: We like the status quo. We don't care about this. Let it just play out. I say that is unacceptable.

Now, we can look at what is happening month by month: almost 600,000 jobs lost in January; 524,000 in December; 533,000 in November. This is what is happening on the ground today.

The other day, I placed into the RECORD some of the layoffs that are going on in my State—everything from Macy's, to Starbucks, to little mom-and-pops, to big companies, to high-tech, all over California. We have 37 million people, and, as they say in California, when we get a cold, everybody else sneezes because we have such an impact. We would be about the seventh largest economy in the world.

This is another bad picture, I show you in the Chamber—unemployment rates rising: 6.7 percent in November; December, 7.2 percent; January, 7.6 percent. In my home State, it is now 9.3 percent unemployment. And there are some communities that have 15 percent unemployment. That is getting closer to a depression.

We have a problem, and we cannot afford stall tactics around here and 60-vote supermajorities. We cannot afford partisanship. We need cooperation because the longer we wait to put those dollars into our communities, the more job losses we are going to see.

Total unemployed Americans: 11.6 million. That is unemployed Americans at the time. Think about that. Think about your community. Think about your State. Think about what 11.6 million unemployed Americans means. There are 1.6 million unemployed Californians. The number of long-term unemployed—they have been looking and looking and cannot find work—is 2.6 million.

By the way, there are 7.8 million underemployed Americans, meaning people who get part-time work who want full-time work—so many people who have higher skills that are not being put to good use. Underemployment is a problem. It is a serious problem.

They say pictures speak a thousand words. I show you a picture of a homeless man in Bakersfield. My local officials in Bakersfield, CA, have noticed a rise in the number of homeless individuals. These are individuals without shelter. As shown in this picture, here is one hiding his face—hiding his face. It is a sad thing, and we are seeing more of it across our Nation.

Job seekers in search of employment at a Goodwill Industries career center in Los Angeles. A Los Angeles man who lost his job at a computer disposal facility was forced to place his children into foster care. Imagine all of us having to place our children into foster care because we could not find another job to support our family. He said: You've got to stay positive, but the economy is failing. I'll take anything.

He visited this Los Angeles Goodwill career center to learn about job opportunities.

The other day, I held up a picture from Florida where thousands of people came for 35 firefighter jobs, and they had to have the police come out, not that anyone was acting out, but they just needed order—for 35 firefighter jobs.

In Fresno, kids are having a good time, but where are they having a good time? In a pool at a home that has been foreclosed upon. They are creating backyard skateboard arenas. The skaters found the addresses of foreclosed homes on the Internet or through friends who work in real estate, and these young people came there to this foreclosed home. This home was once teeming with a family. Your home is your castle. It is a dream being lost.

If we do not pass this first leg of our economic recovery package, this will continue. Because it is one thing to lose your home because your interest rate got out of reach—that is a terrible thing—it is worse when you lose your home because you lost your job. So this is not a good picture.

This is an area in our State that was ready for development in the city of Rio Vista in eastern Solano County. The city of Rio Vista is nearing bankruptcy, its problems coming from plummeting property and sales taxes, a lack of funds coming from the State. The city has laid off employees. They have left open full-time positions. They

have frozen salaries. They have cut city programs. And they have closed city hall 1 day a week. This is a small city, and the reverberations are many.

The San Fernando Valley Career Center—this is a picture of a gentleman who is desperately looking for work. This is what he says: I don't have a single cent in my pocket.

He has been unemployed since September. He visited this career center to seek job opportunities. People are trying desperately to find work.

It is easy to stand up here and say: I don't like the bill. I don't like page 47. I don't like paragraph 2 and paragraph 8. The bottom line is, you can either have the perfect bill, no bill, or the compromise. Again, yesterday we passed the compromise, and we need to get this done.

This breaks my heart. I know all of us feel this way when we see our constituents who are hard workers, who cherish work, who want the pride of a job, having this circumstance.

There is a story from North Hollywood: a mother of five laid off in November 2007, spending hours each day looking for work. She said: This is the longest I've been unemployed. I feel stressed out. I have bills piling up.

So we are at the crossroads. President Obama is getting out to this country. He is going to places like this, where people are desperate. This is ''one nation under God, indivisible, with liberty and justice for all.'' We are not going to live up to that ideal if we do not act now.

My friends on the other side of the aisle, believe me, they had their turn. They had 8 years of their turn. They took a surplus, they turned it into deficit. They took debt that was on the way out and expanded it by double, laying on the backs of every man, woman, and child another $17,000 of debt. They had their chance. This is the worst economy we have seen since the Great Depression. They had their chance. They had an open checkbook for Iraq and they had an open checkbook for their very wealthy friends, and it did not work.

When we were in charge—we are not perfect, God knows, that is for sure—we got this economy back on track. We know what it takes. We have to stimulate this economy. That is the first leg. When it gets on its feet, we will wrap our hands around these deficits and get them under control. We will make sure our financial system has sensible regulation again so people have confidence in it. We know what we are doing.

It is true that the problems are vast, but this country did go through the Great Depression. And what did we see? When we put people to work, it restored their faith and confidence. When we mobilized for a war, we mobilized the productivity of people. We do not want to mobilize for war now, but we do want to mobilize for energy independence by turning to clean energy and creating technologies we can export. We know we have to take care of the housing crisis. We know we have to get ahead of it. We know we have to help people stay in their homes. This next tranche of the TARP funds that Timothy Geithner talked about—the money is already there—$50 billion will be used for that, and I hope even more. So we know what we are doing.

We are not standing up here with a plan that, as President Obama said, is plucked out of the air. It is not plucked out of the air. He spoke to economists—Democratic economists, Republican economists, and those all over the map—and the vast majority say we need to stimulate this economy, get money to the cities, get money to the counties, get money to the States, get money to the private sector, rebuild our physical infrastructure, our highways, our bridges. These are things we need to do anyway—these are things we need to do anyway. We need to get funds to law enforcement so we are not laying off police officers but hiring them. We need to get funds to our schools so we are not laying off teachers, but we are hiring them. We need to have tax breaks in here to encourage investments in alternative clean energy so we can make our government buildings energy efficient. These are all things that save money, create jobs, and we have to do them anyway.

So as President Obama has said, we didn't expect this kind of an economic crisis, but it is upon us. It is upon us. Listen to my friends on the other side and go back to 1993. They are saying the same things. They were the party of ''no'' then; they are the party of ''no'' now. No, no, no, no, no; don't do it. It is not going to work; it is going to hurt the economy; it will lead to a recession; it will increase the debt. All the things they are saying now they said then. They always have a reason to say no.

I wish to close by saying to the three Republican colleagues of mine who came forward: Thank you again. I have said it before. It takes courage. It is hard to go against the caucus you sit in every day. It is hard. I have had to do it on a couple of things. It is very unpleasant. I remember being 1 of 11 people who went a different way on one occasion on a gay rights issue. It was very hard. I remember being 1 of 23 who voted against the Iraq war. It was popular then. It was very hard. I remember voting against the Medicare prescription drug benefit because I thought it would lead to major problems with people getting kicked off their insurance when they needed their medicines the most. It also stopped Medicare from negotiating. It didn't allow them to negotiate for lower prices, and I felt the pharmaceutical companies were going to make a bundle and the people wouldn't get the benefits. I was in the minority. So I know how it feels to be in the minority. I know how it feels to vote differently than most of your colleagues. It is a lonely feeling. I say to those Republican friends on the other side: You are showing courage and you are showing wisdom. You are also showing you have learned from history, because you went back to the Clinton years where we didn't get one Republican vote for a bold economic plan. All the dire predictions turned out to be totally false.

We need to get back to those days of economic growth and expansion, but we can't do it until we move forward with this three-legged stool, this economic stimulus package to create jobs, jobs, jobs; the housing piece to address the terrible loss of confidence in housing, to help people stay in their homes and stop the slide; and, of course, the third piece of making sure our financial sector works once again, so that creditworthy people can step to the plate, go to the bank, and get a loan. It is very hard to do that.

I wish to point out one other piece of the package that is so important. The small businesses in our country will have some credit. This is very key. They will be able to go to the SBA and get this credit. So this is a package that is worthy of our support. It is far from perfect because, again, each of us could write the perfect bill, but that is not possible. Thank you to my Republican friends who have joined us.

I wish to say to the conferees: I understand the pressures they are under and I make a plea to them that within the confines of the numbers we sent over, I hope they can find the right path to take so that this bill coming out of conference is acceptable over here, we get the 60 votes, and we move forward. We have a lot of work to do.

Today I was on a TV show and it was so interesting because one of the experts on the show said, Well, wait a minute. You are talking about this economic stimulus. What about energy independence? What about health care? And he went on and on. What about exports? I thought after I got off the show: In 8 years we have developed all of these problems. We are not going to fix them in 24 hours. You have to have a list, as President Obama has, and tick them off one at a time, address these issues one at a time. The first issue is the stimulus. The second issue will be the financial sector, and then the housing sector. We are already talking about an energy bill that is going to come out pretty soon, which is going to be very exciting. These experts were saying we need a bold vision for America. I agree with them, but we can't fix what went wrong in 8 years in 24 hours. Give us a couple of months, at least, to get it on track and the effects of it will start being felt soon after that, but we can't do everything in 1 day.

So, yes, these experts are right. We have to do all of this, but we have to start at the beginning. The stimulus package is No. 1. We are almost there. When it comes back from conference, we will have another vote, and it will go to the President's desk, and then we will move forward with the rest of the economic recovery plan. I do believe in

my hearts of hearts—I have been around here a while—I do believe President Obama has learned from history. I do believe President Obama is a student of history, because if you are not a student of history you are going to repeat the mistakes of the past. I think he knows what works and I think he knows what doesn't work. So let's get behind him on this first initiative. Let's get it done. Then we will attack each and every problem, because there are many we have on our plate, but we will deal with them. I am confident—this is America—we will be stronger at the end of the day.

Thank you very much, Madam President. I yield the floor, and I note the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. TESTER. Madam President, we have made some difficult decisions over the past few months. After years of failed policies that have dragged our economy into the ditch, we still have many more difficult decisions ahead.

The next big decision will be for Republicans and Democrats working together on a final version of the jobs bill. Now we have an opportunity to focus on a bill that will rebuild our economy from the ground up by putting Americans back to work right now.

The jobs bill we passed yesterday creates jobs—up to 4 million of them—and saves many more by investing in our roads, bridges, water systems, energy facilities, and our schools.

This is long-term infrastructure that will support our economy for generations to come. The jobs bill also invests in what matters—people. It invests in health care and an education, puts cops on the street.

Where I come from, we call things as we see them. The word ''stimulus'' is a Washington, DC, word that doesn't mean much in my book. That is why, from day one, I have called this the jobs bill because that is exactly what it is.

You are either for jobs or you are against jobs. Every day, we hear of layoffs by the tens of thousands.

Unemployment numbers are skyrocketing. Businesses—and even entire industries—are being forced to call it quits.

The national housing slump is taking its toll on Montana's timber industry. The Columbia Falls Aluminum Company is at risk of closing its doors after decades of being a major driver of the economy in Flathead Valley. The Stillwater Mine has laid off hundreds of its employees.

Montana's unemployment rate jumped from 4.9 percent in December to 5.4 percent last month. That is an increase, in 1 month, of a half percent.

The numbers are grim, and they are real. Now is the time for Congress to vote for jobs.

They say a picture is worth a thousand words. This picture is worth much more than that. It is a picture that I came across in the Whitefish Pilot the other day. It was taken by a guy named David Erickson.

The man in this picture is standing on a street corner in Whitefish, MT. He is holding a cardboard sign that says: Work needed. He is someone whom I represent in the Senate. He is one of the 950,000 Montanans whom I am proud to call my boss. His story is a story of millions of Americans right now—millions of Americans who either don't have a job or who went to work today wondering if it will be the last day on the job.

Millions of Americans are wondering how they are going to be able to continue to put food on the table for their families or pay their mortgage or pay for medicine or pay for childcare.

We are not talking about a few folks who drew a short stick. We are talking about millions of Americans who are in the same boat as this guy in the picture—folks who are paying a tough price for the failed economic policies of the past.

Some DC politicians say we don't need to pass a jobs bill because the current recession is only temporary. I ask you to tell that to the guy standing on the street in Whitefish, MT, or to the unemployed woman who wrote me to say she is willing to sweep the streets with a broom if we will give her a job.

These are proud folks. They don't want unemployment checks; they want paychecks. Right now, work is needed. That is the task ahead for my friends in the House and Senate who are working on the final version of the jobs bill.

We need jobs, jobs, and more jobs. We don't need politics as usual. Now is not the time for Congress to be against jobs. It is the time for Congress to work together to put folks back to work by investing in America.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. STABENOW. Mr. President, I ask unanimous consent under morning business to use such time as I may consume.

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

STIMULUS PACKAGE

Ms. STABENOW. Mr. President, we have an opportunity in the next day or two to do something extremely significant to create jobs in this country, to help rebuild the middle class of this country, and to help rebuild confidence in the economy and to turn things around in America. I am anxious to do that, and I know our leadership is working very hard at this moment.

I thank Senator REID and everyone involved in this effort, the Speaker, and I thank our colleagues who have worked across the aisle with us to be able to address what is the most serious economic crisis certainly since the Great Depression. We have seen numbers of jobs lost that only rival back to 1945.

In the morning I had the opportunity to chair a meeting with business leaders from around the country in every part of the economy, from retail sales to restaurants to manufacturing to homebuilders, realtors, the health care industry and information technology. One thing came through loudly and clearly.

First, they are optimistic about America. They want to say we can get through this. But there is a sense that we have to move boldly and we have to get something done to turn things around. That is what this economic recovery package is all about.

We know the numbers. Certainly I know the numbers in Michigan. My constituents, the families of Michigan, understand the numbers of what has been happening to people in my State and across the country. But we have seen since December of 2007 over 3.6 million jobs lost.

It is my understanding now we have more people looking for work than there are available jobs. As a result of policies, of actions and inaction in the last 8 years, we now see over 11.7 million workers without a job. They want to work. People want to work. They work hard. People in my State right now are working hard if they are working. They may be working one job, two jobs, three part-time jobs to try to hold it together. But they want to work. We have seen the set of economic policies and inaction for too long that has created this horrible economic tsunami for too many people in this country.

In my home State, unemployment is 10.6 percent, the highest in 25 years. That is only the people we count. It does not count the people who have been unemployed so long that they are no longer involved in the numbers.

The people of Michigan want to work. They want jobs. They want to be able to pay their house payment, be able to put food on the table, be able to have their small business be successful, be able to manufacture and make things in Michigan for this country and be a part of a vibrant middle class, which has been so wonderful about our country. That is what this economic recovery package is all about. We don't want to see these numbers, 3.6 million lost jobs.

This is a picture from Miami. It is a little bit warmer in Miami than it is in

my State at the moment, although they cannot snow ski. That is something we encourage people to do. I know in your home State of Pennsylvania as well, it is a little bit colder. We are enjoying the wonderful north at the moment. But this is serious. On this picture you could take off Miami and put Michigan and it would be the same. This is a picture of a thousand people who lined up for 35 firefighting jobs in Miami. First, this recovery package will help keep those firefighters on duty. It will help keep police officers on duty. It will help keep teachers in our classrooms. It is critically important that that part of the package be passed.

But when you look at a thousand people—and we have seen thousands of people show up in lines around block after block for jobs—this is not about them wanting to work. It is about whether we are going to have economic policies that create jobs both in the short run and in the long run. I do not want to see any more of these pictures than I absolutely have to—Americans who are standing in line waiting to try to get one of a handful of jobs available.

This is about creating jobs in America. That is what this is about. We want to turn those numbers around. We know there is no silver bullet. Believe me, I don't think there is anybody here who wishes more there was a silver bullet because I would take it, I don't care whose idea it was. We don't have a silver bullet. But we do know from talking to smart people, economists, from conservative economists to liberal economists to everything in between, we do know there are things that will make a big difference. In fact, those same economists were telling us that those things would make a difference last year and the year before and the year before. Unfortunately, there were not the votes, the support to be able to do those things.

Now it has changed. We have a different leader in the White House. We have different Members of the Senate who now agree with the majority of the economists in the country about what should be done to be able to move us forward; what should be done on jobs, and housing, and critical investments to be able to get the economy going again.

I am very proud of the fact that we have in front of us a plan that is part of a three-legged stool. We have Secretary Geithner, who was testifying yesterday in the Banking Committee. Today he is in the Budget Committee, which I am on, talking about two other critical pieces. Housing, how do we get housing going again? How do we stimulate the housing markets? How do we create a bottom in this economic freefall so we can get investments going again and people can stay in their home or buy a new home. Second, he is talking about how do we get credit flowing again, so we are not only giving money to banks but they are loaning the money so that small businesses can get the credit they need, so that the manufacturers, large and small, in my State can get the credit they need to be able to operate, to be able to make parts, to be able to do business. We also know it is critically important that people be able to buy a car.

The two biggest investments most people will make are their home and their automobile. We in Michigan would like them to buy a lot of automobiles, made in Michigan, by the way.

The reality is we have seen credit shrink and dry up in a way that has caused incredible damage to the economy. So there are three pieces—two of those Treasury is tackling through existing dollars—that is incredibly important—and the third one is what we are doing in terms of creating jobs. The bottom line is not about just creating jobs; it is about rebuilding the middle class of this country. Every other country looks at us with envy because of this great economic engine, this great quality of life engine called the middle class of America. That is what we are investing in for the future. The people of this country who have not seen any kind of assistance through trickledown economics over the last 8 years, people who said, hey, how about us? How about my job? What you are doing is just talking about a few people. How about the majority of people?

This economic recovery package is for the majority of Americans. I am very pleased to see that we basically have, in this American Recovery and Reinvestment Act, three goals. One is the focus on creating or saving up to 4 million jobs. Believe me, I know you share that we want that to be 4 and 5 and 6 million and we are not going to stop just because we pass this recovery package. But this is a critical investment in jobs.

We want to make sure there are tax cuts for families, middle-class families. Let's put money in the pockets of the middle class for a change, rather than only those at the top, in terms of wealth. And we want to invest in America's future. That is what we are all about.

I am very proud that there is an emphasis on the new green economy which does all of these things at once. We are here talking about investments in new technologies that can be built in America. I know colleagues probably get tired of me saying it, but it is not enough to invest in research and development or to be able to provide incentives for using alternative energy—wind or solar or buying electric vehicles. We want to build them in America. Mr. President, 70 percent of the jobs in the stimulus in wind energy are in manufacturing wind turbines. There are 8,000 different parts in a wind turbine. I can assure you we can make every single one of those in Michigan and the ones we can't, we will outsource to Pennsylvania.

The reality is we can build the wind turbine. We can build the solar panel. A third of all of the polysilicon materials used in solar panels are actually created in Michigan through Dow-Corning. Unfortunately, too much of that is shipped out to other countries. They build the solar panel, it comes back and it is used. We have incentives in this package that will help make sure they are built here—a new 30-percent manufactured tax credit for alternative energy.

We are not competing with low-wage countries on these issues. We are competing with countries such as Germany. That is not exactly a low-wage or low-cost country but a country that has a specific manufacturing strategy and tax incentives. This proposal does that. It invests in a number of different alternative energies and focuses not only on research and development, on producing the energy, but also on making sure that we are putting an emphasis on manufacturing.

We also here have a strategy for moving to plug-in electric vehicles that are so important for our future—first, by investing in advanced battery technology, research, and again manufacturing; investments for those to be done here.

I was very excited when we saw Ford developed the first Ford Escape hybrid SUV, the first plug-in hybrid SUV. It was great, done in America, actually being built in Missouri. But the battery had to come from Japan. We don't make the battery here. Japan has invested hundreds of millions of dollars in creating the battery technology to get there first in the competition for the next generation of vehicles.

South Korea, Germany, China, and even India have put together a manufacturing strategy to focus on these things. This recovery plan does that for the first time. It puts America back on track with investments in battery technology development and manufacturing. Secondly, it does something critically important—and I wish to thank Senator CANTWELL for her leadership and I am proud to work with her in the effort to create expensing tax incentives for manufacturing of electric vehicles, manufacturing incentives not only for those currently making a profit and for startups and those not making a profit at this time. That is critically important for you to have the research in the battery development, incentives for manufacturing the vehicles, and then we also have consumer tax credits for purchasing vehicles.

We know that when you first create a new product, whether it is your BlackBerry or your iPhone, your computer, whatever it is, it is far more expensive in the beginning. If you sell a large volume, the price comes down. So at the beginning we know consumer credits are very important to help with that initial cost. There are credits of up to $7,500 for purchasing a vehicle, the kind of vehicle we want for the future. In this package, we raise the total on the number of vehicles that would qualify for that credit.

I wish to thank President Obama and his team for advocating for the Federal Government to be part of creating a market by making a commitment to purchase vehicles for the Federal Government. We purchase a lot of cars and trucks. We can help create that market not only for building the vehicles but to bring the price down to consumers by creating a larger market. That is in here as well.

There is also a major focus on what has been called the smart grid, to make sure we have the electric capacity. I am told today, if every one of us had a plug-in electric vehicle and plugged it in, the lights would go out. We would be in trouble. We do not have the capacity. So we are focusing on that as well.

Senator CANTWELL's amendment focuses on what is called smart meters in homes. Again, we are talking about a strategy that, frankly, I am very excited about because it is focused on jobs and developing those technologies and it is focusing on the future.

Frankly, it is focusing on the ability for us to get off foreign oil. The last thing we want, and the way we have been headed, is to exchange dependence on foreign oil for dependence on foreign technology. This recovery package says, you know what, that does not make any sense. Let's create jobs and, at the same time, be working toward getting us off foreign oil, making sure we can keep the vehicle production in this country because we certainly do not want to be asking other countries for their tanks or their trucks or other vehicles. So it is a national security issue.

But let's do this in a way that makes sense in terms of a total strategy. So in this recovery plan we do a number of things for green technology. But there is a strategy, a plan, job training being another critical part of the plan. That is in here as well.

We also know we can immediately create jobs rebuilding America. Some folks will criticize that somehow the spending on jobs for roads and bridges, water and sewer systems and other projects does not make sense. It makes a lot of sense. We have about 25 percent of the bridges in this country that are viewed as structurally unsafe. We need to be about the business of giving a facelift to America. For those who are in our middle years now, we understand that. The truth is we have not been investing in American infrastructure. We have not been investing in roads, bridges, water and sewer.

Guess what. There is a new kind of infrastructure. It is called the Internet. I want the small businesses in Michigan to have access to high-speed Internet so they can do business around the world and stay in Michigan. The capacity to do that is helped in this bill.

We also make sure hospitals can have access to technology so they not only make sure they are providing complete information in the care of someone but they are cutting costs. We are talking about not only traditional infrastructure and water and sewer and roads and bridges and public transportation, which is critically important, but we are also talking about looking to the future—as our President has said, not looking back but looking to the future.

Part of what is in the future, as well, is investing in key portions related to education, related to access to college. That is here as well, all of which keeps people working and creates opportunities. When you help a family afford to send their kids to college, they are not then trying to figure out, since home equity loans are hard to come by now, how in the world they are going to juggle and be able to make the house payment and be able to send the kids to college.

So this is all part of the picture in terms of stimulus. I would suggest this is critically important and long overdue.

We also have a focus in here on those who have been caught up in this economic tsunami, those who have been hurt. I can certainly speak for Michigan because it has been multiple years, not 1 year, not 2 years, that we have seen job loss.

In this package, we also make sure individuals and businesses that are hit the hardest receive assistance. We make sure we extend unemployment compensation—in the hardest hit States, up to 33 weeks for an individual. We provided extra help in putting food on the table, to be able to keep health care.

It is great to have COBRA. If you have health insurance through your employer, then you go on unemployment and the COBRA payment can cost almost your entire unemployment check to be able to keep health care for your family. So we provide help for families, while they are going through a transition to get new employment.

We also—this is very important to Michigan and I know to the Presiding Officer's State as well—make sure we have in place support for workers who have lost their jobs because of unfair trade practices and make sure job training, health care, and other assistance is available as well.

We also know many people who, through no fault of their own, are finding themselves with no health care and needing to go to Medicaid. For individuals without health care, States are being hit very hard. There were 25,000 new individuals in December in Michigan who signed up to get health care assistance. This will help with that as well.

Families in America are hurting. This package recognizes that and supports them and, frankly, according to every economist, creates a huge stimulus to the economy as we are doing that. It makes sense that when someone is out of work and they receive a little bit more money in their pocket, they are going to spend it. They do not have the opportunity to save it. They are going to have to spend it to be able to pay the mortgage, the rent, to be able to pay for food. We have heard this from economists, we have heard it actually for several years now. We have been hearing from economists that the quickest way to stimulate the economy, to get money in the economy, is to extend unemployment benefits, to help with food assistance because the people are going to go to the grocery store, they are going to buy the food. The grocers are going to be able to turn around and purchase food supply from vendors and then the ripple is very large. So we did that because it is both a stimulus and it is also the moral thing to do, the right thing to do, when people in America are hurting.

We know, again, there are more people out of work than there are jobs available. We have, I believe, a moral obligation to pay attention and do what we can to help while families get back on their feet.

There are many parts of this bill, but another important part for families is in the ability to put money in their pockets, in terms of middle-class tax cuts, child tax cuts for families, and to be able to make sure any tax relief is targeted to those first who have not received much of a tax cut in a long time. But, secondly, there are those in the middle class who most need to have money in their pockets and those working hard to get into the middle class who most need money in their pockets as well. We make sure we also focus on helping our veterans and seniors put money into their pockets. Again, we know this will help stimulate the economy.

Overall, I am here to say this package needs to get done. It needs to get done as quickly as possible. It needs to get done by tomorrow or by Friday. I hope we will not see more filibustering going on and more delays.

I hope we will come together. No one says anything we pass is perfect. We do the best we can. In this case, I have to say this is something economists have said will work. We know we need the jobs. We know families need help. We know what we need to do for investments in the future. We know what we need to do to support small businesses, what we need to do to be able to support manufacturing, to keep jobs in America.

This is not rocket science. We know what needs to be done. This package addresses that. This is about creating jobs in America. That is fundamentally what this is about. We have gone for too long, we have lost over 4 million manufacturing jobs, good-paying, middle-class jobs in America in the last 8 years. We have over 11 million people out of work today. Now is the time. Now is the time for us to help the people of America get back to work.

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

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

The legislative clerk proceeded to call the roll.

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

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

LAS VEGAS TOURISM

Mr. REID. Madam President, during the Presidential campaign, candidate Barack Obama came to Nevada 20 times. Most of those visits were to Las Vegas. It is a place he and I have spoken about lots of times. His staff who came with him loved Las Vegas. I want everyone to understand that when President Obama, at his press conference Monday night, said there was a need for an economic recovery plan, he was very serious about that, and he meant it.

During the question-and-answer period, the President made remarks concerning trips to Las Vegas by financial services companies and their employees. I have spoken at length with President Obama's Chief of Staff Rahm Emanuel. I will speak to the President when I have that opportunity. Mr. Emanuel made it clear to me—and I know this is the case—that President Obama's criticism was aimed at the potential use of taxpayer funds for junkets.

Now, we gave a lot of money to these banks, and they shouldn't be taking junkets with any of that money, whether they go to Las Vegas, Los Angeles, Salt Lake City, New York City, or anyplace else. That was the point President Obama was making.

We all know Las Vegas is a premier destination source of the world, and people look upon it as a good place to go for a little timeout. I repeat, during the campaign President Obama was in Nevada 20 times. In fact, he just accepted my invitation to visit again this spring, early summer for the first time as our President.

Nevada has lots of hotel rooms, but Las Vegas has more than 140,000—far more than any other place in the world. We have millions of feet of visiting space. The largest convention center in the world is in Las Vegas.

As all Americans spend less as a result of our economic crisis, it is important to note that Las Vegas, with an average daily hotel rate of only $119, is one of America's most affordable cities to visit. It is one reason nearly 6 million people came to Las Vegas to attend more than 20,000 meetings and conventions last year.

President Obama and I agree that every penny of taxpayer funds should be protected. We also agree Las Vegas is one of America's greatest destinations for tourists, families, and businesses.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

STIMULUS PACKAGE

Mr. GRASSLEY. Madam President, earlier today the junior Senator from California was discussing President Clinton's 1993 tax hike bill that broke his campaign promise to cut taxes on those making $200,000 or less and instead raised taxes on those making more than $20,000 a year. The junior Senator from California said this morning:

> Charles Grassley: I do not think it takes a rocket scientist to know that this bill will cost jobs. That is what he said of the Clinton plan that created 23 million jobs.

That is the end of the quote of what this Senator said. It is an accurate quote, but I want to make sure there is a context.

I made that statement about the 1993 Clinton tax hike bill on seniors and the vast majority of other Americans. The junior Senator from California is saying that one tax hike bill in 1993 is solely responsible for the creation of 23 million jobs between 1993 and the year 2000 and, in a sense, we should ignore all other economic events, including the work of the Republican Congress, free-trade legislation, and many other factors that actually caused the job creation during that period. Other than being simply wrong, it revises fiscal history. I felt the need to respond to those remarks because the junior Senator from California called me out by name on the Senate floor.

I gave a speech on the Senate floor just yesterday that clearly rebuts her mistaken assertion that the Clinton 1993 tax hike bill was the cause of 23 million jobs. Perhaps she was involved in partisan negotiations on the stimulus bill instead of watching my speech at that time.

I will note that as one of five Senate conferees on the stimulus bill, I have been excluded from participating in conference negotiations and instead will only be invited to a photo op today scheduled at 3 p.m. which the Democrats are referring to as the one conference meeting that is required under the rules. DAVE CAMP, the only other Republican tax writer who is a conferee, has also been excluded from conference negotiations.

There will not be any negotiations, give or take, or compromise at that meeting; it will simply be to ratify a deal that Democrats and three Republicans out of 219 Republicans in the entire Congress have agreed to. In fact, there were more Democrats—11 in the House of Representatives—who voted against the stimulus package than there were the three Republicans who voted for it. This bill was handed over to the House Democratic leadership to write, and they wrote a bill that was loaded down with a lot of unnecessary—well, I shouldn't say unnecessary spending; I should say spending that goes way beyond the 2-year window of stimulus; a window that Dr. Summers, the President's economic adviser, said ought to be timely, temporary, and targeted. That is 2 years, that is not forever.

So this bill is not stimulative, then, or goes way beyond being stimulative, and it tended to include items that reward Democratic supporters such as unions and environmental groups. It has an enormous bailout of States that overspent their budgets and a lot of spending that belongs in an appropriations bill but which has no place in a stimulus bill. Less than 34 percent of the Senate bill was tax relief, according to the Congressional Budget Office, which is the official scorekeeper on that matter. Less than 1 percent of the Senate bill was tax relief for small business, and small businesses are the engine for job growth in our economy, creating three-fourths of new jobs in our economy.

Since the junior Senator from California clearly did not hear my speech from yesterday, I wish to go over some of the key items she has overlooked. Two days ago, and again this morning, there was a lot of revision or perhaps editing of recent budget history. Our President alluded to it. I agree with the President there is a lot of revisionism in the debate. The revisionist history basically boils down to two conclusions: that all of the so-called good fiscal history of the 1990s was derived from a partisan tax increase of 1993; and No. 2, that all of the bad fiscal history of this decade to date is attributable to bipartisan tax relief plans earlier this decade.

Now, not surprisingly, nearly all of the revisionists who spoke generally oppose tax relief and support tax increases. The same crew generally support spending increases and oppose spending cuts. In the debate so far, many on this side have pointed out some key, undeniable facts. The bill before us, with interest included, increases the deficit by over $1 trillion. The bill before us is a heavy stew of spending increases and refundable tax credits, seasoned with small pieces of tax relief. The bill before us has new temporary spending that if made permanent will burden future budget deficits by over $1 trillion. All of this occurs—all of it occurs—in an environment where the automatic economic stabilizers are kicking in to help the most unfortunate in America with unemployment insurance, food stamps, and other benefits—things that are part of the social fabric of America that are meant to take care of people in need, and particularly right now when we are in a recession, they automatically trigger in to higher levels of spending. That antirecessionary spending, together with lower tax receipts and the TARP activities, has set a fiscal table of a deficit of $1.2 trillion. That is the highest deficit as a percentage of the economy in post-World War II history, not a pretty fiscal picture. It is going to get a lot uglier as a result of this bill. So for the folks who see this bill as an opportunity to recover America with Government taking a larger share of the economy over the long term, I say congratulations.

If a Member votes for this bill, that Member puts us on the path to a bigger role for the Government, but supporters of this bill need to own up to

the fiscal course they are charting. That is where the revisionist history comes from. It is a strategy to divert, through a twisted blame game, from the facts before us. One can ask: How is this history revisionist? So I would take each conclusion one by one.

The first conclusion is that all of the good fiscal history was derived from the 1993 tax increase. To knock down this assertion, all you have to do is take a look at this chart—not a chart produced by the Senator from Iowa but a chart produced from data from the Clinton administration, and it is right here. It is the same chart I had up a couple of days ago. The much ballyhooed partisan 1993 tax increase accounts for 13 percent—you can say 13 percent or you can say just 13 percent, and I prefer the latter—just 13 percent of the deficit reduction through the decade of the 1990s.

The biggest source of deficit reduction, 35 percent, came from, as you can see, cuts in defense spending. Of course, that fiscal benefit originated from President Reagan's stare-down of the Communist regime in Russia before 1989, and we didn't have to spend as much on defense because the Cold War was—well, there wasn't a Cold War, I suppose you could say. The same folks on that side who opposed President Reagan's defense buildup take credit for the fiscal benefit of a peace dividend.

The next biggest source of deficit reduction, 32 percent, is other revenue. It came from various sources. Basically, this was the fiscal benefit from progrowth policies, such as the bipartisan capital gains tax cut of 1997, and the free-trade agreements President Clinton, with Republican votes, established.

The savings from the policies I have pointed out translated into interest savings. So you get the 15 percent that is from interest savings.

Now, for all the chest-thumping about the 1990s, these chest thumpers who push for big social spending didn't bring much to the deficit reduction table of the 1990s. That contribution was the 5 percent you see up there.

What is more, the fiscal revisionist historians in this body tend to forget who the players were. They are correct that there was a Democratic President in the White House. But they conveniently forget the Republicans controlled the Congress for that period, where the deficit came down and turned to surplus. They tend to forget they fought the principle of a balanced budget that was the centerpiece of our policy at that time, the Republican Party's policy.

Remember the Government shutdown in late 1995?

They ought to remember that. Remember what it was about? It was about a plan to balance the budget. Republicans paid a political price for forcing the issue. But, in 1997, President Clinton agreed. Recall, as well, all through the 1990s what the year-end battles were all about. On one side, congressional Democrats and the Clinton administration pushed for more spending. On the other side, congressional Republicans were pushing for tax relief. In the end, both sides compromised. That is the real fiscal history of the 1990s.

Let's turn to the other conclusion of the revisionist fiscal historians. That conclusion is that, in this decade, all fiscal problems are attributable to the widespread tax relief enacted in 2001—which was a bipartisan bill—2003, 2004, and 2006.

In 2001, President Bush came into office and inherited an economy that was careening downhill. Investment started to go flat in 2000—you know, the NASDAQ bubble that lost 50 percent of its value. In February 2000, we started down the road of more than 40 months of downturn in the manufacturing index. Then we had the economic shocks that related from the 9/11 terrorist attacks and then you can add in the corporate scandals to that economic environment.

It is true, as fiscal year 2001 came to a close, the projected surplus turned to a deficit, and we have a chart that shows the start of this decade's fiscal history.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. Is it possible to get 3 more minutes?

Mr. BROWN. Madam President, if the Senator would like an additional 5 minutes, that is OK with me.

Mr. GRASSLEY. I appreciate that. I have to get out of here at that time anyway. I have a radio program I have to do.

The PRESIDING OFFICER. The Senator is recognized for 5 additional minutes.

Mr. GRASSLEY. Madam President, we have the chart that you have seen before, and nobody has disputed the chart. Maybe you can dispute the interpretations of it, but these are figures you can rely upon.

If my comments were meant to be partisan shots, I could say this favorable fiscal path from 2003 to 2007 was the only period, aside from 6 months in 2001, where Republicans controlled the White House and the Congress. But unlike the fiscal history revisionists, I am not trying to make any partisan points; I am trying to give you the fiscal facts.

We have another chart that compares tax receipts for the 4 years after the much ballyhooed 1993 tax increase and the 4-year period after the 2003 tax cut.

On a year-by-year basis, this chart compares the change in revenues as a percentage of GDP. In 1993, the Clinton tax increase brought in more revenue as compared to the 2003 tax cut. That trend, though, reversed as both policies moved along in years. You can see from the chart how the extra revenue went up over time relative to the flat line of the 1993 tax increase, which ought to make it very clear that you don't necessarily bring in more revenue because you increase taxes, and you can decrease taxes, stimulate the economy, encourage business activity, encourage investment, and bring in more revenue.

The progrowth tax and trade policies of the 1990s, along with the ''peace dividend'' had a lot more to do with deficit reduction in the 1990s than the 1993 tax increase, which was only 13 percent of deficit reduction. In this decade, deficits went down after tax relief plans were put in full effect.

That is the past. We need to make sure we understand it. But what is most important is the future. In fact, the last election, based upon President Obama's very own statements, was about the future, not about the past. So we should not be talking about the past. People in our States sent us here to deal with future policy. They don't send us here to flog one another similar to partisan cartoon cutout characters over past policies. They don't send us here to endlessly point fingers of blame. Now let's focus on the fiscal consequences on the bill in front of us. That is what this vote, before we end this week, is all about.

President Obama rightly focused us on the future with his eloquence during the campaign. I would like to take a—paraphrase a quote from the President's nomination acceptance speech:

> We need a President who can face the threats of the future, not grasping at the ideas of the past.

President Obama was right.

We need a President, and I would add Congressmen and Senators, who can face the threats of the future. This bill, as currently written, poses considerable threats to our fiscal future. Senator MCCAIN's spending trigger amendment showed us the way. We can rewrite this bill to retain its stimulative effect, but turn off the spending when the recovery occurs.

Grasping at ideas of the past or playing the partisan blame game will not deal with the threats to our fiscal future.

It is not too late to do a clean stimulus bill, which is what the American people want and need. There is a way to reach a real bipartisan compromise, not just picking off a few Senators that frequently vote with the Democrats. We can have a significant amount of infrastructure spending for roads and bridges. Even though some on our side of the aisle have issues with the making work pay credit, we could take that and expand it to cover all those making up to $250,000—which is the level that President Obama and his surrogates said during the campaign that he wants to cut taxes for people. Instead, the making work pay credit phases out starting at $70,000 for individual workers. So we are saying a large part of the middle class by President Obama's definition won't get the tax cut. In fact, the ''we give a tax cut to 95 percent of working families'' number that has been bandied about is wrong. According to the Joint Committee on

Taxation, 87 percent of workers qualify for some or all of the credit, and even less get all of the credit. So there is a way forward. It is a clean stimulus bill. All the Democratic agenda items and spending items that should go in the appropriations bill can get done in regular order. The Democrats have the votes. They don't need to push that agenda on the American people and dig a deficit ditch an additional $1.2 trillion deeper with this bill, when interest on the bill is considered. They have the votes to push their agenda later in the year. For now, let's give the American people what they want, a clean stimulus bill, and not scare them into thinking that the Democratic agenda needs to be pushed in the stimulus bill. It is reminiscent of that famous chicken—Chicken Little, who said ''The Sky is Falling.'' Let's do a clean stimulus bill instead.

I think this clears up the record. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Madam President, I was glad to yield the additional 5 minutes to my friend from Iowa. Senator GRASSLEY has always been, as far as I could see, bipartisan in my 2 years in the Senate. I thank him for that. I often don't agree with his reasoning, but I always agree with his motive. I wish to make a couple comments—and I know he has to leave and that is fine. I wish to make some comments on his comments, and then I will talk more precisely and directly about this stimulus package that we are convinced will create millions of jobs for our economy and our country.

I was joined in a press conference today by the President of the National Association of Manufacturers, a group that rarely supports me in my campaign and rarely supports the Presiding Officer in hers, as it is a group that simply doesn't agree with us. The National Association of Manufacturers thinks this stimulus package is just right. They like the spending part, the tax cuts part; they think it is the right mix. They were resounding in their support today. Also joining Senator JACK REED and me was the president of the National Association of Realtors.

There are a lot of very important economic organizations and business groups that are supportive of this legislation. I am sorry it has become so partisan to the Republicans and that only three of them could see their way to support a bill that has gotten huge bipartisan and business support and labor support around the country and not even three people in the House of Representatives. So I have a couple comments on Senator GRASSLEY's comments.

I am incredulous when you see people stand and try to make the 1990s economy out to have not been very good and the economy of the last decade to have been better. Yet anything good that happened in the 1990s had to do with Republican policies, and anything bad that happened in this decade had to do with Democratic policies. It goes back to something I am even more incredulous about, and that is this cottage industry that has been created in this country in the last year that Franklin Roosevelt's Presidency was a failure and that it caused the Depression and then caused the second depression and recession in 1937. It is remarkable. I am not an economic expert. I took economics courses in high school and in college, but I am a prolific reader. I don't ever recall reading—from conservative or liberal economists and people in between, such as academics or business people—that Franklin Roosevelt's economic policies were a failure, until 6 months ago when it was clear that Barack Obama was going to be President and was going to follow some of Roosevelt's ideas of direct spending to put people to work, for infrastructure, for health care, education, and a lot of things Franklin Roosevelt did, such as regulation of Wall Street, of the minimum wage and worker's compensation and unemployment compensation—all the things that Roosevelt began.

On a personal note, I add that this desk at which I stand is desk No. 88. They each have numbers on them. This desk was occupied, back in the 1930s, by future Supreme Court Justice Hugo Black, then a Senator from Alabama. Hugo Black supposedly sat at this desk when he wrote the minimum wage bill; he wrote it on the Senate floor, apparently, and it later became law.

What intrigues me is that there are Wall Street Journal columnists—no surprise—and Washington Times, Republican ideologues, and conservative think tanks funded by some of the wealthiest outsourcing kinds of corporations in America, who are trying to discredit Franklin Roosevelt's policies in order to discredit President Obama's policies. It is historical revisionism that sounds almost like, I daresay, the Soviet Union—this kind of revisionist history that I don't even get.

There is no question in any fair-minded historian's mind that what Franklin Roosevelt did mattered in a very positive way. He built a banking structure that kept us safe for 75 years, until the Republicans deregulated it in the last 8 years. He built a wage structure that created a middle class. He got us out of the Depression, along with others he worked with.

Enough of that. When I heard my friend from Iowa talk about the 1990s, that the Clinton policies didn't work and that, in 2001, the Bush policies did—where I come from, in Ohio, we say that doesn't pass the straight-face test. I don't think anybody believes them. These columnists and pundits and rightwing ideologues and think-tank academics keep saying it, so I guess they are talking to each other but not to the American public.

Let me talk about the stimulus. The Senate, yesterday, took a major step toward revitalizing this stumbling economy.

We passed legislation that would create jobs in construction, engineering, green energy, social work, health care, the retail sector, the service sector, and the manufacturing sector—preserving those jobs now and building jobs in the future.

These are jobs that stimulate consumer spending, which stimulates economic activity, economic activity that fuels growth and gets us out of recession. When you build a bridge, you put money in the pockets of sheet metal workers and operating engineers and laborers and carpenters and electricians.

When you build an infrastructure project, that money does two things: It goes directly into the economy because these are good-paying jobs that create a middle class, and they will spend that money on homes, cars, and consumer items. It also, as I have learned in doing roundtables around Ohio—I have done 125 roundtables in all of Ohio; I have been in all the 88 counties listening to people talk. I invite 20 or 25 people in a community, a good cross-section of people. It is not just the mayors and county engineers who say we need more sewers, broadband, water systems, bridges, highways, and roads. It is also economic development directors of the communities' chambers of commerce, the plant managers, and other business people who understand that to do economic development, you need clean water for manufacturing, you need a good transportation system, bridges, water, sewer systems, broadband, and all these things. That is what this stimulus package is about—infrastructure. It creates 4 million jobs, some directly and immediately, as we set the table and build a foundation for economic development.

The bill, I also add, invests in alternative energy. That means good-paying jobs, energy innovation, and energy independence. It means fighting for global independence and fighting global warming, a force that is threatening animal species and could only jeopardize the human species as well. An overwhelming number of scientists say that.

This bill will not only stimulate our economy, it will make sure our Nation can regain its economic footing and does not do it just to lose it again in the future.

We cannot be dependent on foreign oil and hope to thrive in the global economy. We cannot let our transportation infrastructure erode. That is what has happened in the last 10 years.

At the beginning of this decade that some of my Republican friends brag about, the economic policy of the early Bush years, we had a budget surplus when he stood on the Capitol steps and took the oath of office. We had a budget surplus in this country. Then the President went to war with Iraq, spending $3 billion a week. The President did tax cuts for the wealthiest Americans.

And all of a sudden, we have this huge budget deficit that my Republican friends rail against we are adding to.

When President Obama took office, the budget deficit was at $1 trillion for that fiscal year. It went from zero to $1 trillion. Madam President, $1 trillion is a thousand billion; a billion is a thousand million. If you spent $1,000 every second of every minute of every hour of every day, it would take you 33 years to spend $1 trillion. The pages sitting in front of me average in age about half that; am I correct? Sixteen years or so? They have lived about half a billion seconds. For them to spend $1 trillion, they would have had to spend $2,000 every second of every minute of every hour of every day in their young lives to get to $1 trillion. You, Madam President, would have to spend a little less, being very young but a bit older than they are.

Let me talk for a moment about what is happening with the States.

Every State in this country—unless they are energy States, unless they make money in their State treasuries from oil production, coal production, natural gas production—is faced with a huge budget deficit. My State of Ohio, for instance, as so many States, is forced to cut services. Cutting services means cutting jobs, it means laying off people, and it means hurting communities. It means all of that.

We cannot dismiss this situation. We must confront it. We must do something about it. It means as people lose their jobs, as a plant in Jackson, OH, the Meridian plant, closes or a plant somewhere else in Gallipolis or Mansfield or Toledo, OH, closes—when a plant shuts down, it is not just those workers who lose, as tragic as it is; it also puts more demands on the mental health system, more demands on the food pantry, more demands on communities that simply cannot afford it. As their tax base shrivels, they cannot afford it.

Economic recovery will not happen at the national level unless it happens at the State level. With dramatically reduced revenues, States are left with no options. They are cutting basic jobs, and they are cutting basic services. They are cutting social workers, teachers, mental health counselors, and public safety personnel. We cannot function that way. If what we do in the recovery bill adds jobs but the States take them away, we will be left treading water.

The House-passed economic recovery bill includes dollars the States can use to weather this economic storm. And if they don't weather it, none of us will.

So I hope Senators and Representatives negotiating the final bill will agree upon the House-passed State stabilization fund. It just makes sense.

This bill, as I said earlier, is endorsed by the National Chamber of Commerce, the National Association of Manufacturers, the Realtors, and businesses all over the Presiding Officer's State of North Carolina and my State of Ohio. It is endorsed by small businesses, by manufacturing businesses—all those companies that create so much wealth and jobs in our society.

In my State, from Toledo to Columbus, our universities are engaging in groundbreaking research. From Cleveland to Cincinnati, regional partnerships are being formed to advance solar and wind technology. My State is well on the way to becoming the Silicon Valley of alternative energy. We are about to put wind turbines in Lake Erie—the only place in the world where wind turbines will actually be located in freshwater. We are building hydropower on the Ohio River. We have the largest solar manufacturer of any State in the country in northwest Ohio. The University of Toledo is doing all kinds of wind turbine research, fuel cells in Stark State and Canton and Rolls Royce and Mount Vernon. Fuel cell development and research is far ahead of most places in the country, with biomass, Battelle in Columbus, all kinds of coal research. We are doing things that, with this bill, we can do better.

There is $33 billion in green energy tax incentives in this bill to grow jobs by encouraging green energy production. What value is it if we wean ourselves from foreign oil by using solar but we are not producing solar in our country?

Oberlin College, which is 15 minutes from my house, has the largest single building on any college campus in America powered fully by solar energy built 3, 4 years ago. We got those solar panels from Germany and Japan. Why do we do that? We do it because in the early part of this decade President Bush pushed through this Senate and the House—I was a Member of the House—an energy bill that dumped all of its tax incentives, subsidies and incentives, to oil and gas, not to solar, not to wind, not to fuel cells, not to biomass, not to where we should have been looking. It was the same old game, same old politics, same old ''help your friends in the oil and gas industry, cash your campaign checks, and do the country wrong.'' That is why this bill is so important to do something else.

Lastly, I wish to talk about another provision of the bill which probably is the strongest provision of the bill; that is, the ''Buy American'' provision Senator DORGAN and I worked on in the last couple of years.

In a recent survey of Americans, 84 percent support the ''Buy American'' provision—perhaps the strongest statement of the public on any provision in the stimulus bill. The fact is, we are asking people in North Carolina, Ohio, and around this country to reach into their pockets and come up with hundreds of billions of dollars to spend on the stimulus package. They ask three things: first, that we be accountable in doing this right; second, they ask that the jobs be in the United States; third, they ask that the materials used for this infrastructure also be made in the United States. That is the compact we have come to, and I believe that is so very important.

I have had discussions with people at the highest levels of the Obama administration about the importance of ''Buy American'' and about enforcement. We have had some of these ''Buy American'' laws on the books since the Roosevelt years. It is part of the reason he was successful. The Bush administration simply turned its back on this law. They simply did not enforce it. They granted waivers, waivers that were not even public. For instance, the 800-mile fence along the Mexico-United States border was made with Chinese steel, probably illegally. But the Bush administration just said: OK, buy the steel wherever you want, instead of putting Americans to work.

I close with, as all of us in this body—most of us—understand, we need to get this economy back on track, we need to set the stage for a prosperous future. Partisanship at this stage is a slap in the face of unemployed Americans, families facing foreclosures, communities sinking into poverty, and, frankly, to middle-class America, who just wants an even break and wants us to get our economy back on track. Action is our only option. Let's move.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF WILLIAM J. LYNN, III, TO BE DEPUTY SECRETARY OF DEFENSE

Mr. LEVIN. Mr. President, I ask unanimous consent now that the Senate proceed to executive session to consider Calendar No. 14, the nomination of William Lynn to be Deputy Secretary of Defense; that there be 3 hours of debate with respect to the nomination, with 1 hour each under the control of Senator GRASSLEY and Senator MCCAIN or his designee, 1 hour under my control or my designee's, and that upon the use or yielding back of time, the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be laid upon the table, no further motions be in order, that the President then be immediately notified of the Senate's action and the Senate resume legislative session.

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

The clerk will report the nomination.

The bill clerk read the nomination of William J. Lynn, III, of Virginia, to be Deputy Secretary of Defense.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I yield myself as much time as I utilize.

Mr. President, I urge my colleagues to join me in supporting the nomination of Bill Lynn to be Deputy Secretary of Defense. This nomination was reported to the Senate by the Armed Services Committee by voice vote on February 5, without objection or dissenting vote.

Since the time that he received his law degree from Cornell Law School and his master's degree in public affairs from the Woodrow Wilson School more than 25 years ago, Mr. Lynn has devoted his life to public service and the national defense. For 6 years, Mr. Lynn worked as the military legislative assistant and legislative counsel to Senator TED KENNEDY. In 1993, he moved to the Department of Defense, where he served first as director of program analysis and evaluation, and then as comptroller until 2001. Over the years, he has also served as a senior fellow at the National Defense University, on the professional staff at the Institute for Defense Analyses, and as an executive director of the Defense Organization Project at the Center for Strategic and International Studies.

At the end of the Clinton administration, Mr. Lynn went to the private sector for the first time, working first for DFI international and then for Raytheon Corporation, where he has served as senior vice president of government operations and strategy, overseeing the company's strategic planning and government relations. As a result of the senior positions he has held with Raytheon, Mr. Lynn has vested and unvested stock in the company, as well as salary, bonus, and retirement payments that are due now and in the future

Mr. Lynn's situation is of course not unique. Numerous nominees to senior positions in prior administrations—including nominees to serve as Secretary of Defense, Deputy Secretary of Defense, Under Secretary of Defense for Acquisition, Technology and Logistics, Secretaries of the Military Departments, and Service Acquisition Executives—have served in similar industry positions and held similar financial interests at the time of their nominations.

Over the years, the Senate Armed Services Committee has developed a strict set of ethics guidelines to address potential conflicts of interest, and the appearance of conflicts of interest, arising out of such nominations. These guidelines are tougher and more comprehensive than the rules historically imposed by the executive branch or by other congressional committees. When I say ''These guidelines'' are tougher and more comprehensive, I am referring here to the guidelines that the Senate Armed Services Committee has developed.

For example, under generally applicable executive branch ethics rules, a nominee could address actual or potential conflicts without divesting stock or other financial interests by recusing himself from matters involving his former employer—subject to a waiver by DOD ethics officials. However, the Armed Services Committee of the Senate takes a stricter approach. We require that nominees to Senate-confirmed positions divest themselves of stock, stock options, and other financial interests in companies that do business with the Department of Defense. In the case of stock options that have not yet vested, and will not vest within 90 days after confirmation, the committee insists that the nominee renounce the options—in other words, forfeiting the entire value of the stock options.

The committee's strict divestiture requirements are added to the requirements of statutory and regulatory ethics rules applicable to all executive branch officials. Our rules require senior executive branch officials to recuse themselves from decisions impacting their former employers for a period of 1 year, even if they have already divested all financial interest. When I said ''our rules'' I was referring here to the executive branch rules. As a result, nominees to senior DOD positions are subject to both divestiture and recusal requirements.

These ethics requirements have been effective. Over the 12 years that I have served as chairman or ranking member of the Armed Services Committee, I am not aware of a single instance in which a Senate-confirmed defense official who previously served in industry has even been alleged to have taken an action favoring his former employer. We may agree or disagree with some of the decisions that these senior officials have made, but conflict of interest does not appear to have been alleged in any of those disagreements.

Mr. Lynn has complied with all of the committee's requirements. In accordance with our ethics guidelines, Mr. Lynn has agreed to divest his financial interest in his former employer within 90 days of his confirmation. In order to accomplish this purpose, he has agreed to forfeit restricted stock. By the way, this stock has a value between $250,000 and $500,000. But that stock does not vest until late in 2009 or 2010. In short, Mr. Lynn has agreed to forfeit that restricted stock and thereby make a significant financial sacrifice in order to return to Government service.

In addition, Mr. Lynn will be subject to the statutory and regulatory recusal requirements that I have already discussed. These recusal requirements are subject to waiver by the senior ethics official in the Department of Defense. However, Mr. Lynn has taken an additional step by agreeing not to seek any waiver of the recusal requirements during his first year in office with regard to any matter on which he personally lobbied either Congress or the executive branch. This commitment on Mr. Lynn's part goes beyond the steps taken by previous nominees to senior positions at the Department of Defense.

The bottom line is this. Mr. Lynn, if confirmed, will be subject to ethics restrictions that are stricter than those historically imposed by the executive branch, stricter than those applied by other congressional committees, and stricter even than those applied by the Armed Services Committee to previous nominees with similar backgrounds.

On January 21, 2009, President Obama issued an Executive order on ethics commitments by executive branch personnel. This Executive order includes a provision that would, for the first time, preclude registered lobbyists from seeking or accepting employment with an agency that they had lobbied within the previous 2 years. Because Mr. Lynn was a registered lobbyist for Raytheon, he could not have been appointed Deputy Secretary of Defense without a waiver of this prohibition.

On January 23, 2009, the Director of the Office of Management and Budget approved a waiver to two paragraphs of the executive order, clearing the way for Mr. Lynn to serve.

Mr. Lynn will still be subject to the tough new postemployment restrictions in the executive order. Those would preclude him from lobbying any DOD official for 2 years after leaving office, and from lobbying any political appointee in the Obama administration for the duration of the administration, should he leave his position before the end of the administration.

This waiver was appropriate: Mr. Lynn is a career public servant whose recent history in the private sector was more of an exile than a calling. He didn't leave the Department of Defense 8 years ago because he wanted to cash in on inside connections or information, but because the Clinton administration came to an end. When Mr. Lynn hopefully passes through the doors of the Pentagon as Deputy Secretary of Defense, he will return to his roots as a public servant, put his relationships in industry behind him, and recognize that his sole duty and obligation is to his country and the national defense.

Today, the Department of Defense faces huge management challenges. The Government Accountability Office reported last year that the cost overruns on the Department's 95 largest acquisition programs alone now total almost $300 billion over the original program estimate, even though the Department has cut unit quantities and reduced performance expectations on many programs in an effort to hold down costs.

The Department's financial system remains incapable of producing timely, accurate information on which sound business decisions can be based. The Department's civilian workforce has been decimated by decades of freezes and cuts, leaving us dependent on contractors who perform many functions

that should be performed by Government personnel.

Mr. Lynn's background in senior management positions in the Department of Defense and in industry over the last two decades gives him the kind of knowledge and experience that will be useful to address these challenges. In the course of the committee's consideration of Mr. Lynn's nomination, I have spoken to him about the challenges facing the Department of Defense. I have been impressed by his grasp of the problems the Department faces and his ideas for addressing them.

Under these circumstances, and those are the circumstances I have outlined about cost overruns, we cannot afford a Deputy Secretary who is either disengaged or ineffectual. We need someone with the kind of experience and background Mr. Lynn will bring to the job. His nomination, again, was approved by the Senate Armed Services Committee without a single dissenting vote. I hope our colleagues will support this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I intend to vote in favor of the nomination of Mr. Lynn to be the Deputy Secretary of Defense. Mr. Lynn has an extensive record of public service. He has served as the Director of Program Analysis and Evaluation in the Pentagon during the Clinton administration, and following that he was the Under Secretary of Defense, Comptroller, from 1997 to 2001. He served as, obviously, the chief financial officer for the Department of Defense.

After his DOD service, Mr. Lynn, as we know, became a registered lobbyist and the Raytheon Company's senior vice president of government operations. In that position he led Raytheon's strategic planning and oversaw all of their Government relations activities.

Mr. Lynn has served as I mentioned, but nowhere, I might point out, does he have in his resume any extensive managerial experience. One of the major functions of the Deputy Secretary of Defense is to make the Pentagon run. Mr. Lynn does not have that executive managerial experience.

Having said that, elections have consequences, as we all know, and this is the selection that the President of the United States made, and the Secretary of Defense also supports his nomination.

I do not view the fact that Mr. Lynn became a lobbyist for Raytheon as, per se, disqualifying. Mr. Lynn has indicated his willingness to comply with the ethical requirements of the executive branch aimed at preventing conflicts of interest, and he has agreed to the additional stock divestment obligations that the Committee on Armed Services has consistently required of nominees.

I have been concerned, however, about the practical problems that would arise from Mr. Lynn's past lobbying activities and the legitimate concerns the American people would have if Mr. Lynn made decisions related to the programs for which he lobbied.

I sent a letter to Mr. Lynn on January 26, with a follow-up letter on January 29, asking him to articulate in detail what specific matters would be affected. Mr. Lynn responded on January 30 indicating that he had worked on the DDG–100 surface combatant, the AMRAAM air-to-air missile, the F–15 airborne radar, the Patriot Pure Fleet Program, the Future Imagery Architecture, and the Multiple Kill Vehicle. He provided me with written assurances that he would refrain from participating in any decisions regarding those programs for 1 year if he is confirmed.

I believe these assurances and with ongoing reviews within DOD that encompass rigorous screening Mr. Lynn will endeavor to perform effectively as the Deputy Secretary of Defense.

I am aware, as I mentioned, that he has the support of Secretary Gates, and I obviously consider that to be an endorsement in Mr. Lynn's favor. President Obama, as we all know, signed an Executive order on January 21, 2009, that established a praiseworthy ''revolving door ban'' that would bar any lobbyist from working for an agency they lobbied within 2 years of an appointment. The Executive order included a provision for granting a public interest waiver, and Mr. Lynn was given a waiver.

It is disappointing that President Obama, who pledged continuously throughout the campaign to change the culture of Washington and the influence of lobbyists, then almost immediately chose to nominate several individuals, including Mr. Lynn, who required a waiver.

So after proudly trumpeting a new change and the new rules and regulations, several individuals—and a couple have had to withdraw their nominations—that Mr. Lynn required a waiver or exemption to that policy. Obviously, the American people were promised one thing but delivered another.

My colleague, Senator GRASSLEY, who will be speaking later, sent a letter on January 29 to OMB Director Peter Orszag asking for a justification for the granting of the waiver. I ask unanimous consent that Mr. Orszag's response on February 3 be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, DC, February 3, 2009.

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

DEAR SENATOR GRASSLEY: Thank you for giving the Administration the chance to address the questions you raise in your letter of January 29, 2009 regarding the granting of a waiver that exempts Mr. William J. Lynn from certain provisions in President Obama's Executive Order on Ethics Commitments by Executive Branch Personnel (the ''Order''). We appreciate your concerns and are glad to have the opportunity to fully explain the decision to grant this waiver, which we strongly believe to be the correct one.

I. BACKGROUND

The President signed the Executive Order on Ethics Commitments by Executive Branch Personnel on January 21, 2009. The Order includes some of the strictest ethics rules ever imposed on executive branch personnel. In addition to barring appointees from accepting gifts from registered lobbyists, the Order places sharp limitations on individuals traveling back and forth between government service and the private sector, using their government service for personal enrichment at the expense of the public interest.

The Order takes an especially strong stand against lobbyists moving into and out of the executive branch. The Order restricts registered lobbyists who are appointed to an executive agency from participating in any particular matter on which they lobbied within the past two years and from participating in the specific issue area in which that particular matter falls, subject to the waiver provision discussed below. Registered lobbyists are also restricted from seeking or accepting any employment within an executive agency that they lobbied within the past two years.

The Order has been roundly praised by commentators and leading good government advocates as the toughest ever of its kind. To cite just a few, Democracy 21 said that ''the new Executive Order contains the toughest and most far reaching revolving door provisions ever adopted,'' and went on to say that the Order ''goes further than any previous action taken by a President to restrict the ability of presidential appointees who serve in the Executive Branch from coming back to lobby the Administration, and also to limit the role of lobbyists coming in to serve in the Administration.'' The Washington Post reported that experts viewed the Order as ''considerably broader than those other presidents imposed,'' and Meredith McGehee, policy director of the Campaign Legal Center, said in a statement that ''[no] two ways about it, the revolving-door provisions in the new executive order issued by President Obama are very tough.''

Even the toughest rules, however, need reasonable exceptions. That is why the Order provides that a waiver of these restrictions may be granted in limited circumstances. The waiver may be granted when it is determined ''(i) that the literal application of the restriction is inconsistent with the purposes of the restriction, or (ii) that it is in the public interest to grant the waiver.'' Sec. 3(a). The Order goes on to explain that the ''public interest'' may include, but is not limited to, exigent circumstances relating to national security or to the economy. Sec. 3(b). The Order also instructs the Director of the Office of Management and Budget to consult with the White House Counsel when determining whether a waiver is necessary and appropriate.

Experts have praised the inclusion of a waiver provision in the Order. For example, Norman Ornstein, a Resident Scholar at the American Enterprise Institute stated that: ''This tough and commendable new set of ethics provisions goes a long way toward breaking the worst effects of the revolving door. There are many qualified people for the vast majority of government posts. But a tough ethics provision cannot be so tough and rigid that it hurts the country unintentionally. Kudos to President Obama for adding a waiver provision, to be used sparingly

for special cases in the national interest. This is all about appropriate balance, and this new executive order strikes just the right balance.''

Similarly, Thomas Mann, Senior Fellow of Governance Studies and the Brookings Institution notes: ''The new Obama ethics code is strict and should advance the objective of reducing the purely financial incentives in public service. I applaud another provision of the EO, namely the waiver provision that allows the government to secure the essential services of individuals who might formally be constrained from doing so by the letter of the code. The safeguards built into the waiver provision strike the right balance.''

II. RESPONSES TO YOUR QUESTIONS

In considering the waiver for Mr. Lynn so that he might serve as Deputy Secretary of Defense, we believe the right balance has been struck by granting a waiver at the request of the Secretary of Defense to a qualified candidate whose service to the country is critical to our national security. With that in mind, we want to address your specific questions.

First, you asked what criteria were used in determining that Mr. Lynn's waiver was necessary to further ''the public interest.'' As noted above, the Order specifically states that the public interest includes ''exigent circumstances relating to national security.'' These circumstances include the urgent need to have the best-qualified individuals serving at the highest levels of the President's national security team. As Secretary Gates stated with regard to asking the President to nominate Mr. Lynn to be the Deputy Secretary: ''I interviewed Bill Lynn; I was very impressed with his credentials; he came with the highest recommendations of a number of people that I respect a lot. And I asked that an exception be made, because I felt that he could play the role of the deputy in a better manner than anybody else that I saw.''

Mr. Lynn's qualifications for the Deputy position are well known. Mr. Lynn served as Under Secretary of Defense (Comptroller) under President Clinton, before which he had served as the Director for Program Analysis and Evaluation in the office of the Secretary of Defense. Prior to that, he served as an Assistant to the Secretary of Defense for Budget. High-level experience in managing Pentagon budgetary, finance and procurement functions is extremely rare, and it was particularly important to Mr. Lynn's selection here.

As you are aware, the Department of Defense faces enormous management challenges. During Mr. Lynn's previous tenure at DoD, there were significant efforts to improve financial reporting, including two major initiatives. First, in 1998, DoD adopted for the first time a Financial Management Improvement Plan, which was a strategic framework for improving critical financial systems and feeder systems in the future. Second, the DoD Senior Financial Management Council was reconstituted during 2000 and adopted a comprehensive program management plan in January 2001.

Mr. Lynn was generally credited with putting appropriate managerial emphasis on improving financial reporting. For example, on February 17, 2000, the Deputy Inspector General testified to Congress that ''the DoD has seldom, if ever, been so committed to across the board management improvement . . . . with continuous management emphasis, th[e] initiatives should dramatically improve the efficiency of DoD support operations over the next several years.'' DOD IG Report No. D–2000–077 at 4.

Similarly, on May 9, 2000, Jeffrey Steinhoff from the General Accounting Office (now the Government Accountability Office) testified that ''DOD has made genuine progress in many areas throughout the department. . . . We have seen a strong commitment by the DOD Controller and his counterparts in the military services to addressing long-standing, deeply rooted problems.'' GAO/T–AIMD/NSIAD–00–163 at 2.

This progress could be seen in several areas. For example, when Mr. Lynn took over as Comptroller, DoD could not even generate a list of its finance and accounting systems. GAO/AIMD–97–29 (Jan. 31, 1997). By the time he had left, DoD had identified 167 critical systems, had achieved compliance with federal financial management standards in 19 of those systems, and had a plan to achieve compliance for the balance of its systems by FY 2003. To take another example, under Mr. Lynn's watch, DoD continued its progress in significantly consolidating and streamlining its financial centers and financial systems. Between 1991 and 2000, DoD consolidated 330 accounting and finance locations into 26, and reduced the number of finance and accounting systems from 648 to 190. Accomplishments like these led John Hamre, who was Mr. Lynn's predecessor as Comptroller and who also served as Deputy Secretary, to state that ''I don't know anybody who did the job better than Bill Lynn.''

Mr. Lynn's experience is not limited to the Pentagon. From 1987 until 1993, Mr. Lynn served on the staff of Senator Edward Kennedy as the legislative counsel for defense and arms control matters and as the Senator's staff representative on the Senate Armed Services Committee. Prior to 1987, he was a senior fellow in the Strategic Concepts Development Center at National Defense University, where he specialized in strategic nuclear forces and arms control issues. He was also on the professional staff of the Institute of Defense Analyses. From 1982 to 1985, he served as the executive director of the Defense Organization Project at the Center for Strategic and International Studies.

In short, Mr. Lynn's executive branch experience, combined with his legislative, think-tank and private sector experience, gives him the precise set of skills that are not only necessary to the job, but are rare in their breadth and depth. That is why former Secretary of Defense William Cohen, who served as Mr. Lynn's supervisor during the Clinton Administration, commented that he has ''precisely the kinds of skills required'' to serve as the Deputy Secretary. We share both the current and former Secretaries' views that Mr. Lynn's experience and skill set would make him an exceptional Deputy Secretary of Defense.

Second, you asked about the potential for conflicts of interest given Mr. Lynn's past position at Raytheon Company (''Raytheon''). These issues were carefully reviewed as part of the consideration of Mr. Lynn, and we believe that strong safeguards have been erected that address these concerns and allow Mr. Lynn to serve. We note that these arrangements were structured in conformance with the Armed Services Committee's longstanding requirements and practices. These arrangements have also been approved by the Defense Department's ethics official as eliminating potential conflicts and providing for appropriate protective measures.

Specifically, Mr. Lynn will divest his Raytheon stock within 90 days of his appointment, including his shares in the Raytheon Savings and Investment Plan. He also will forfeit all of his restricted stock units that he holds under the 2007–2009 Raytheon Long-Term Performance Plan (LTPP) and the 2008–2010 LTPP, and will divest those shares he holds under the 2006–2008 LTPP within 90 days of their vesting in February. To ensure there are no conflicts regarding the stock, he will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of Raytheon until he has divested the stock, unless he first obtains a written waiver, pursuant to 18 U.S.C. §208(b)(1), or qualifies for a regulatory exemption, pursuant to 18 U.S.C. §208(b)(2).

Further, for a period of one year after his resignation from Raytheon, he will not participate personally and substantially in any particular matter involving specific parties in which Raytheon is a party, unless first authorized to participate, pursuant to 5 C.F.R. δ2635.502(d). As an additional precaution, Mr. Lynn has promised not to seek authorization to participate in decisions on any of the six specific programs where he personally lobbied: the DDG–1000 surface combatant, the AMRAAM air-to-air missile, the F–15 airborne radar, the Patriot Pure Fleet program, the Future Imagery Architecture, and the Multiple Kill Vehicle.

Finally, consistent with the customary practice for departing executives of Raytheon, Mr. Lynn will continue to participate in the Raytheon Defined Benefit Plan, which would pay him about $4,300 monthly beginning on January 1, 2019. In accord with the letter signed by the Chairman and Ranking Member of the Senate Committee on Armed Services dated September 23, 2005, Mr. Lynn has agreed that prior to acting in any particular matter that is likely to have a direct, predictable, and substantial effect on the financial interest of Raytheon, he will consult with his Designated Agency Ethics Official, and will not act in the matter unless that official determines that the interest of the Government in his participation outweighs any appearance of impropriety, and issues a written determination authorizing his participation. Mr. Lynn understands that such an authorization does not constitute a waiver of 18 U.S.C. §208 and does not affect the applicability of that section.

Under the circumstances, we believe this arrangement accomplishes the twin goals of enforcing tough ethical standards that protect the public interest, while also assuring that the nation is not deprived of a talented and badly-needed public servant to assist with the defense of our nation.

Third, you ask about the process for selecting Mr. Lynn. We can assure you that the selection of Mr. Lynn came at the end of an extensive process that resulted in a consensus opinion that Mr. Lynn was the best-qualified candidate for this job. Multiple candidates were considered and interviewed over the course of what was a long and rigorous review. Ultimately, though, this is a position for which there is a short list of truly qualified applicants who have the kind of experience we detailed earlier in response to your first question. Taking into account all of the factors, including the concerns raised in your letter, the President and Secretary Gates felt that Mr. Lynn was the best person for the job.

Fourth and finally, you have asked whether Mr. Lynn's ability to perform his job will be impaired by any necessary recusals. We do not believe the ethics compliance process described above will hinder Mr. Lynn from doing his job. The process strikes a reasonable balance under the circumstances. It waives the need for Mr. Lynn to recuse himself from issues that would otherwise be implicated by paragraphs 2 and 3 of the ethics pledge, but still requires him to follow the remainder of the Order, including the revolving door exit provisions and the gift ban, as well as the other restrictions detailed in this letter.

Again, thank you for this opportunity to address these issues. As the Ethics Executive

Order and the other Orders and Presidential Memoranda signed on the same day reflect, President Obama and all of us in the Executive Office of the President are committed to running a highly transparent and accountable administration. We look forward to working with you on these issues and on government reform issues more broadly.

Sincerely,

PETER R. ORSZAG,
Director, Office of Management and Budget.

GREGORY B. CRAIG,
Counsel to the President.

Mr. MCCAIN. With respect to the waiver, Mr. Orszag stated:

The selection of Mr. Lynn came at the end of an extensive process that resulted in a consensus opinion that Mr. Lynn was the best qualified candidate for the job.

He went on to say:

Mr. Lynn's executive branch experience, combined with his legislative, think tank and private sector experience—

As you note, he did not mention a managerial role that he might have had in his career—

gives him the precise set of skills that are not only necessary to do the job, but are rare in their breadth and depth.

I hope Mr. Lynn will be a rare exception to the new rule—you know, one of the things I had hoped would happen because of the deep disapproval the American people have in the way we do business is this kind of cycle of lobbyists to executive branch, to legislative branch, to lobbyists. It goes on in this town with enormous frequency and has led to scandals, indictments, and convictions of former staff members, former Members of Congress, and former members of the executive branch. I had hoped that somewhere in America there would be someone who had the experience and knowledge and background in running what probably, I believe, is the largest organization in the world, the Department of Defense, rather than again having to go inside the beltway.

But as I mentioned, elections have consequences. The President has designated Mr. Lynn and others to positions which are in violation of the much heralded Executive order he made concerning not having lobbyists serve in Government.

So I will give him at least, in my opinion, my vote, the benefit of the doubt, and will vote in favor of Mr. Lynn's nomination.

He responded to, albeit belatedly, the questions I submitted to him. I wish him well. We face enormous challenges both in the way the Department of Defense operates, the acquisition programs—and many of them are completely out of control, with cost overruns that are staggering—to a lack of efficiency in a number of areas.

I not only wish Mr. Lynn well, but I look forward to working with him as we do whatever we can to defend this Nation's vital national security interests as well as manage the functions of a bureaucracy which, in all candor, has defied sound management under both Republican and Democratic administrations.

I know Senator COBURN and Senator GRASSLEY will be over later on. I am confident that Mr. Lynn's nomination will be voted out overwhelmingly by the Senate. I hope Mr. Lynn will do well in his new position of responsibility. I pledge to work with him as much as possible, as I have done with Secretaries of Defense and Deputy Secretaries of Defense in Republican and Democratic administrations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I wanted to thank Senator MCCAIN for his support. It is exceedingly important, and his very thoughtful statement makes a real contribution to the debate.

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

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

Mr. GRASSLEY. Mr. President, I come to the floor to raise questions about whether Mr. Lynn ought to be Deputy Secretary of Defense. I do it with the normal courtesy, that a President ought to be able to name people to his team, and I do it based upon two questions: One, the use of the waiver for him to be in this position contrary to the Executive order of President Obama; and, secondly, to raise questions about his activity as chief financial officer in the second Clinton administration, and now coming to be Deputy Secretary of Defense. I will try to lay this out as best I can with documentation.

I will not be able nor do I need to document the first consideration on the waiver. I wanted to express views on it.

I thought I had seen the last of Mr. Lynn when President George W. Bush first took office. I was dead wrong. So I had to send my staff out to where the Senate buries old skeletons. It is the Records Center out in Maryland, the scenic countryside about 20 miles from the Capitol. There I had my staff dig up the remains of what came to be known, and what I came to know about Mr. Lynn's activities as chief financial officer about 10 years ago.

I would give a little bit of word of advice to my colleagues, archival of your materials. I found that political nominees, good and bad, come back like Australian boomerangs. Some take longer than others to return, but eventually you will see them again.

Mr. Lynn is currently employed as senior vice president, government operations, of a major defense contractor, Raytheon. Until June 2008, Mr. Lynn was registered as Raytheon's principal lobbyist to the Department of Defense.

I have serious questions about the nomination. My first area of concern is that Mr. Lynn does not appear to meet President Obama's strict new ethical standards for executive branch appointees. Those standards were laid down in an Executive order of January 21, 2009.

It is important for me to say what ethics means to me. Everyone has a different idea as to what ethics represents. This is a complicated issue, and I don't want there to be any confusion about this word or principle. The Merriam Webster dictionary defines the word ''ethics,'' one, as the discipline dealing with what is good and bad, with moral duty and obligation. This definition is very clear, but I want to go a step further to say that, to me, ethics are very uncomplicated principles of life. Simply put, when faced with tough choices or decisions, we must always do what is true and correct.

Throughout the Presidential campaign, candidate Barack Obama repeatedly promised to close the revolving door and change the political culture in Washington. This was one of his top priorities. Consistent with those promises, within 24 hours of being sworn in, he signed the Executive order that set new ethical standards in stone. Under the ''revolving door ban'' section of those rules, Mr. Lynn should have been barred from serving as Deputy Secretary of Defense until July 2011. I understand Mr. Lynn has been given a special order by the administration to further the public interest.

According to a letter I have received from OMB Director Peter Orszag of February 3, 2009—and I have it here if anybody is interested in reading it. Senator LEVIN has already had this letter printed in the RECORD.

According to this letter from OMB Director Peter Orszag of February 3, 2009, Mr. Lynn's waiver was based on ''exigent circumstances relating to national security.''

Director Orszag stated:

Mr. Lynn is uniquely qualified for this position and is urgently needed to serve on the President's national security team.

Mr. Orszag was responding to my letter of January 29, 2009, asking for the justification of the waiver.

I ask unanimous consent to have that letter printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, January 29, 2009.

Hon. PETER ORSZAG,
Director, Office of Management and Budget, Washington, DC.

DEAR DIRECTOR ORSZAG: I write today to express my concerns with the recent decision to grant a waiver for Mr. William J. Lynn, exempting him from the strict new ethics rules outlined in President Obama's Executive Order titled ''Ethics Commitments by Executive Branch Personnel,'' signed on January 21, 2009.

Mr. Lynn has been nominated by the President to serve as the Deputy Secretary of Defense. He is currently employed as a senior vice president at a major Department of Defense (DOD) contractor—Raytheon Company. Until very recently, he was also registered as Raytheon's principal lobbyist to the DOD.

Throughout the presidential campaign, President Obama repeatedly promised the American voters that he would ''close the revolving door'' in order to greatly limit the role of lobbyists in his administration. He warned lobbyists, they ''won't find a job in my White House'' and [lobbyists] ''will not run my White House, and they will not drown out the voices of the American people.'' He also stated: ''*If you are a lobbyist entering my administration, you will not be able to work on matters you lobbied on or in the agencies you lobbied during the previous two years* [emphasis added].'' Further, President Obama explained why it was important to close the revolving door: ''Lobbyists spend millions of dollars to get their way. The status quo sets in. . . . They use their money and influence to stop us from reforming [government policies]''. He added, ''. . . together, we will tell the Washington lobbyists that their days of setting the agenda are over.''

President Obama's message was crystal clear: allowing lobbyists to pass freely through the revolving door was simply not in the public interest. He espoused that lobbyists in government ''are a problem'' because they block needed reforms—reforms that Mr. Obama promised to the American people.

President Obama's promises to ''close the revolving door'' seemed to be a top priority. He meant what he said. He kept his promise. In fact, within 24 hours of being sworn in, President Obama signed a new Executive Order titled, ''Ethics Commitments by Executive Branch Personnel'' to cement his campaign pledge into an official order. Paragraphs two and three of Section One—entitled ''Revolving Door Ban''—appeared to solidify President Obama's pledge to ''close the revolving door.''

However, exactly two days after signing the Executive Order, you exercised authority delegated to you under Section 3 of the Executive Order and issued a waiver to Mr. Lynn, which effectively gutted the ethical heart of the President's ''Revolving Door Ban.'' I find it difficult to reconcile Mr. Lynn's nomination to be the Deputy Secretary of Defense with the purpose and intent of the Executive Order.

Mr. Lynn was a registered Raytheon lobbyist for six years. His lobbying reports clearly indicate that he lobbied extensively on a very broad range of DOD programs and issues in both the House and Senate and at the Department of Defense. If confirmed, Mr. Lynn would become the top operations manager in the Pentagon. He would be the final approval authority on most—if not all—contract, program and budget decisions. Surely, a number of Raytheon issues would come across his desk. Mr. Lynn's conflict of interest has been characterized by some as an ''impossible conflict.'' The Chairman of the Armed Services Committee, Senator LEVIN, has stated that Mr. Lynn will have to recuse himself from those decisions for one year. Since Raytheon is a big defense contractor, those recusal requirements could limit Mr. Lynn's effectiveness as Deputy Secretary of Defense.

Based upon President Obama's statements made during the presidential campaign and leading up to and following the signing of the Executive Order, I simply cannot comprehend how this particular lobbyist could be nominated to fill such a key position at DOD overseeing procurement matters, much less be granted a waiver from the ethical limitations listed in the Executive Order.

Additionally, I have serious questions about the message that this waiver sends to other lobbyists seeking employment in President Obama's administration. Despite strong language limiting the role of lobbyists in the Executive Order, it appears to me that Mr. Lynn's nomination and the waiver granted to him leaves ''the barn door wide open'' for other potential nominees with lobbying backgrounds to circumvent the Executive Order. This is a giant loophole that places the burden of granting waivers strictly with the Director of the Office of Management and Budget (OMB). As such, I believe a detailed explanation of the reason for granting the waiver is warranted in order to ensure that the granting of future waivers is done in a fully transparent manner and given the sunshine such an important decision deserves.

The waiver provision in the Executive Order provides that the OMB Director may grant a waiver for two reasons, (1) ''that the literal application of the restriction is inconsistent with the purposes of the restriction'' or (2) ''that it is in the public interest to grant the waiver''. These provisions are general and provide wide latitude in determining when a waiver is applicable. For instance, in Mr. Lynn's case, the waiver simply states: ''After consultation with Counsel to the President, I hereby waive the requirements of Paragraphs 2 and 3 of the Ethics Pledge of Mr. William Lynn. I have determined that it is *in the public interest* [emphasis added] to grant the waiver given Mr. Lynn's qualifications for his position and the current national security situation. I understand that Mr. Lynn will otherwise comply with the remainder of the pledge and with all preexisting government ethics rules.''

While I am glad to see that the waiver does not appear to fully circumvent the Executive Order or other existing government ethics rules, the broad language used in determining that the waiver is in the ''public interest'' is a concern. Little detail is provided as to why the waiver is necessary. Only general criteria used in the analysis and justification for the waiver are given. Accordingly, I strongly urge OMB to publicly set forth a list of criteria utilized to examine whether a waiver would be in ''the public interest.'' Further, OMB should also publicly set forth criteria examined to determine when ''literal application of the restriction is inconsistent with the purposes of the restriction.'' By making these criteria public, it will go a long way toward making OMB decisions transparent and providing the American people with a full accounting of why waivers to the Executive Order are necessary. I strongly encourage OMB to do this as soon as possible to ensure those decisions do not merely become an arbitrary basis to circumvent the Executive Order.

Additionally, I respectfully request that OMB provide responses to the following questions:

(1) What criteria did OMB use to determine that Mr. Lynn's waiver was necessary to further ''the public interest''?

(2) Does OMB believe there are no inherent conflicts of interest to have Mr. Lynn serve as the Deputy Secretary of Defense overseeing procurement from a company he formerly lobbied for? If not, why not?

(3) Given President Obama's position on lobbyists serving in government positions, did anyone in OMB ask the President or his Counsel to consider whether other candidates for the position would be better qualified before granting the Lynn waiver?

(4) Does OMB believe Mr. Lynn's requirement that he recuse himself in certain instances under provisions of the Executive Order not impacted by the waiver will hinder him from doing the job? Why or why not?

The idea behind President Obama's promise to close the revolving door and ban lobbyists from his administration had one purpose: to protect the public interest. The new rules are designed to protect the taxpayers against wasteful and unnecessary expenditures and policies that might be advocated by ''special interests'' inside the government. By granting Mr. Lynn's waiver, it appears that OMB has undermined the principal purpose of the new ethics rules—to protect the public interest. It seems like the OMB waiver embraces the lobbyist culture that President Obama promised to change. As Director of OMB, your decisions set the tone for the entire federal bureaucracy. By making the waiver process more public, OMB would send a clear and unambiguous message: transparency is first and foremost when it comes to dealing with ethics rules.

Please bring transparency and accountability to Mr. Lynn's waiver and all future waivers of the Executive Order by providing details about why waivers have been granted and the criteria used to determine them.

I would very much appreciate a prompt answer to my questions.

Sincerely,

CHARLES GRASSLEY,
Ranking Member.

Mr. GRASSLEY. I also understand that President Obama's picks for these key positions should be respected. I said that about President Bush. I have to say it about President Obama. They were elected. They have a certain respect of the people, and that respect should not be questioned by the Senate except under extraordinary circumstances. I think these are extraordinary circumstances, and I am bringing it up.

Mr. Lynn has informed me that he would be divesting his financial stakes in Raytheon in the next 90 days. He also said he would not engage in any Raytheon-related decisions for 1 year at DOD unless he receives a special waiver.

Regrettably, for Mr. Lynn and for American taxpayers, getting rid of conflicts of interest is not as easy as it might sound. The Raytheon Corporation has hundreds of potential contracts and programs with the Department of Defense. As such, the Office of Government Ethics will have to set up a full-time department just to handle Mr. Lynn's conflict-of-interest Raytheon waivers.

On the one hand, I believe the best leaders lead by example. So mean what you say. For that reason, I challenge Mr. Lynn to take control of this ethical debate and demonstrate true leadership on this issue by sticking to the principles set forth by President Obama's Executive order on ethics commitments by executive branch personnel. Special waivers and exemptions undermine the basic principle of good government.

Changing the rules as you go along tends to foster a basic sense of distrust of the Government of all Americans. We all know that is a problem. We have to be cautious to make sure we don't make the situation worse. Why make rules if you know you are going to break them? How can gutting the ethical heart of the new ethics rule be in

the public interest when those very same rules were created in the first place in the public interest?

Even the best qualified nominees with the highest recommendation should recognize when serving in his or her post would not be in the public interest. I believe the American people expect nominees to be true and honest. Given his chosen career path, Mr. Lynn should know he does not comply with the spirit or intent of the Executive order on ethics.

If he is seriously devoted to serving his country and this President, Mr. Lynn should consider withdrawing his nomination and ask to be reconsidered when he is within the ethics ''revolving door'' principles laid down by my President, Mr. Obama. Then he would come back in 2 years to seek such appointment. This country will always need good leaders who lead by example. By doing this, he would set the standard of excellence for all other nominees to follow. It would restore integrity and credibility to President Obama's new ethics rules. As it stands now, unfortunately, the Lynn nomination is rolling down a very low road at high speed. By setting the new rules aside for the first top-level appointee to come down the pike, President Obama and his administration appear to embrace the very same culture President Obama promised to change.

None of us knows for sure whether Mr. Lynn's nomination is truly in the public interest. We can only hope it is. In time, we will find out.

What is going to take me longest to explain is documentation of some activity of Mr. Lynn when he was Chief Financial Officer and how that fits into some questions I have about the position to which he was nominated.

My second area of concern pertains to Mr. Lynn's financial management record at the Pentagon. Mr. Lynn served as Chief Financial Officer at the Department of Defense from November 1997 through 2000. I first came to know Mr. Lynn in 1998, after he was appointed to the position. Between June 1997 and July 1998—1 month, approximately—I conducted an in-depth investigation of internal financial controls at the Department of Defense. I was testing basically internal controls within the Department. I reviewed about 200 financial transactions from Pentagon offices where the fraud had occurred. We examined purchase orders, contracts, invoices, delivery verifications or receipts, and, finally, we examined final payments. We even checked to see if remit addresses were correct. In short, we looked at the whole ball of wax.

The results of this investigation were presented in a report in September 1998. This is a report my staff and other people put together. The report concluded, in September 1998, involving the Chief Financial Officer and/or things under his command or jurisdiction:

Internal controls at the Department of Defense were weak or nonexistent.

The Government Accountability Office, then called the General Accounting Office, concurred with my assessment.

Our investigations found that not one of the accounts payable files examined was 100 percent up to snuff. I was alarmed to find they all had either minor or major accounting deficiencies. If the Department of Defense had followed standard accounting practices, none of the bills should have been paid. Unfortunately, all went out the payment door.

The most glaring and persistent shortcoming observed was the near total absence of valid receiving reports in the accounts examined at the Defense Finance and Accounting Service Center in Denver, CO. A receiving report is one of the most important internal control devices. They provide written verification that the goods and services billed on an invoice were received and matched with what was ordered. In all the files examined, we found only 6 out of 200 genuine receiving reports, or what they call DD–250 forms. The rest of the files contained none. Of the six receiving reports found, all were either invalid or incorrect.

We also noticed gaping holes in another key control mechanism, remit addresses. A remit address is important because it is at the end of the money trail, where the money goes. The review found zero control over remit addresses. A total of 286 technicians in the Dallas center had authority to alter remit addresses. This was a violation of another basic internal control principle—separation of duties. A person responsible for paying bills should never be allowed to change a remit address.

On September 23, 1998, I met with Mr. Lynn to discuss the findings of my investigation. I provided him with a draft of the report. I asked him to review it and provide comment. In his response, dated 5 days later, September 28, 1998, Mr. Lynn did not challenge the findings in this report. So we have this report I have been referring to, and I asked Mr. Lynn for comment on that report. I have his letter here not challenging the findings.

I ask unanimous consent that it be printed in the RECORD.

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

UNDER SECRETARY OF DEFENSE,
Washington, DC, September 28, 1998.

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

DEAR SENATOR GRASSLEY: At our meeting of September 23, 1998, you requested that I review and comment on the ''Joint Review of Internal Controls at Department of Defense'' draft report dated September 21, 1998.

I am very troubled by the problems cited in this report, as well as the related General Accounting Office (GAO) report. Effective internal controls are essential to the detection and prevention of fraudulent activity in our vendor payment operations. Without question, the Krenick and Miller fraud cases, which are at the core of both reports, indicate that there are unacceptable weaknesses in our internal control programs. Although both individuals were caught and convicted, and funds were recovered, we must ensure that the appropriate actions are taken to prevent further abuses. Let me briefly describe for you the measures that the Defense Finance and Accounting Service (DFAS) is taking to improve internal management controls.

First, we are taking steps to ensure that the vendor pay process establishes positive control over payment-related information. An important step in this regard is to tighten controls over remittance addresses through use of a Central Contractor Registration database maintained by the acquisition community. Eliminating the ability of personnel in the paying offices to change the addresses to which payments are sent will correct a critical weakness that was exploited in the fraud cases cited.

Second, to reinforce the principle that there must be a strong separation of responsibilities for providing and verifying payment information, we are strengthening the processes that preclude a single individual from controlling multiple critical portions of the payment process. In particular, pursuant to a GAO recommendation, DFAS is reducing by at least half the number of employees who have the highest level of access to the Integrated Accounts Payment System.

Third, a critical internal control is the positive check of payment information with accounting data prior to disbursement. To ensure the effectiveness of this control, we will make systems changes to eliminate the ability of a single individual to have concurrent access to both the vendor payment system and the accounting system.

No internal control system will work if it is not rigorously adhered to throughout the organization. During August of this year, a top to bottom review of the various vendor pay operations was accomplished at each DFAS center and operating location. This review concentrated on identifying weaknesses in the application of these controls and business practices. At the same time, DFAS has conducted a stand down of all vendor pay operations to provide formal training in internal controls and fraud awareness. Finally, earlier this month, I met personally with all of the directors of the DFAS centers and operating locations to stress the need to strengthen our management controls.

To ensure a more permanent senior level oversight of internal controls, DFAS has established a separate organization which reports directly to the Director's office. The mission of this organization will be internal review, fraud prevention, fraud detection, and audit follow-up. One of the primary functions of this office is to track and ensure that accepted recommendations from existing fraud oases, GAO audits, along with other internal and external reviews and reports are implemented. This unit will be operational within the next 30 days.

In closing, Senator, I want you to know that I place the highest priority on ensuring that we have the best possible protections against fraud and wrongful payments. We have more to do, but I believe that we have made a strong start in responding to the lessons of the Miller and Krenick cases. I have conveyed these thoughts to Senator Durbin as well.

Sincerely,

WILLIAM J. LYNN.

Mr. GRASSLEY. In this letter, Mr. Lynn appeared to agree with all of my findings and recommendations 100 percent. That is a conclusion I make. The letter will be in the RECORD, so Members can read it for themselves. He said

that he was ''very troubled'' by every one of the control weaknesses cited in the report.

Mr. Lynn further stated:

There are unacceptable weaknesses in our internal control programs.

He promised me he would be taking aggressive corrective action to improve and tighten controls. He concluded by saying:

I want you to know that I place the highest priority on ensuring that we have the best possible protections against fraud and wrongful payments.

I also shared my concerns with Secretary of Defense Bill Cohen in a letter dated October 5, 1998. In his response on November 16, 1998—and I have that response from Secretary Cohen here—he offered identical assurances.

I ask unanimous consent to have that letter printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 5, 1998.

Hon. WILLIAM S. COHEN,
Secretary of Defense, Pentagon, Washington, DC.

DEAR BILL, I am writing to follow up on my recent Subcommittee hearing that examined the results of the Joint Review of Internal controls at the Department of Defense.

First, I would like to extend my sincere appreciation to the Department of Defense (DOD) for excellent cooperation and support throughout the Joint Review of Internal Controls. The person who is most responsible for energizing this project is Mr. Bob Hale, Assistant Secretary of the Air Force for Financial Management and Comptroller. We first met on June 27, 1997 to lay the ground work for the project. At that meeting, Mr. Hale agreed—with the full backing of the Secretary of the Air Force—that this would be a joint review between his office and my Subcommittee on Administrative Oversight and the Courts. As part of this arrangement, Mr. A. Ernest Fitzgerald, Management Systems Deputy of the Air Force, was authorized to participate. Mr. Fitzgerald was a key asset, since internal controls are one of his primary areas of responsibility. The ''jointness'' of this project contributed greatly to its success. Despite some rough spots, this approach could serve as a model for future cooperative efforts. Due largely to Mr. Fitzgerald's active participation, the department directed some corrective action as problems were being discovered and documented.

Second, I have the distinct impression that no one in the department takes much exception to the findings and recommendations contained in either the Joint Staff Report or the accompanying reports issued by the General Accounting Office. The attached letter from the Under Secretary of Defense, Mr. Bill Lynn, is testimony to that fact. He admits that he is ''very troubled'' by the control weaknesses that were uncovered by the Joint Review and is taking aggressive corrective action. Those efforts appear to be focused in one critical area—tightening controls over the process for placing ''remittance addresses'' on checks and electronic fund transfers. I am encouraged by Mr. Lynn's positive attitude and his determination to address these problems in meaningful ways. However, my long experience with the department causes me to feel some skepticism. In the past, I have found wide disconnects between what is promised by senior DOD officials and what is really done. I hope you will personally make sure that Mr. Lynn and other responsible officials fix this terrible problem.

I intend to follow up until I feel that the taxpayers' money is adequately protected.

Third, as Mr. Lynn said, he was ''very troubled'' by the problems cited in the reports. The Joint Staff Report, for example, states that the control environment within the Defense Finance and Accounting Service (DFAS) is characterized by ''fraud and deceit''—to use the exact words of a senior DFAS official. Between late 1995 and early 1997, there were repeated reports and allegations of fraudulent activity in DFAS—particularly at the OPLOC at Dayton, Ohio. In at least three instances, the Director of the Denver center, Mr. John Nabil, ordered the Director of Internal Review, LTC Boyle, to investigate. In each case, LTC Boyle confirmed the existence of fraudulent activity within DFAS. Mr. Nabil even signed a memorandum (attached) on September 30, 1996 that substantiates the existence of criminal activity within his organization. Yet every one of these ''red warning flags'' was ignored, and DFAS management failed to report suspected violations of 18 U.S.C. 1001 and other laws to the proper authorities—as required by law. The end result of this mismanagement was costly to the taxpayers. Embezzlers like SSGT Miller—and certainly others—were allowed to tap into the DOD money pipe—unrestricted—and steal huge sums of money—undetected. Eventually, an employee at Dayton blew the whistle and called the law directly. Maybe those persons who raised red flags at Dayton deserve awards?

In conclusion, I don't believe that the problems at the Dayton OPLOC are an isolated case. I think they are part of a general pattern of fraud and abuse within DFAS. The Joint Staff Report uncovered evidence of similar kinds of fraudulent activities at the Denver center in 1997 and 1998. I intend to refer this matter and other related matters to investigative and audit agencies for further investigation.

Bill, someone needs to be held accountable for what happened at the Dayton OPLOC and for what appears to be happening at the Denver center today. Who is responsible? Without some accountability, Mr. Lynn's promises will, in fact, come to nothing. Please let me know what you decide to do.

Sincerely,

CHARLES E. GRASSLEY, *Chairman, Subcommittee on Administrative Oversight and the Courts.*

Attachment.

THE SECRETARY OF DEFENSE,
Washington, DC, November 16, 1998.

Hon. CHARLES GRASSLEY,
Chairman, Subcommittee on Administrative Oversight and the Courts, U.S. Senate, Washington, DC.

DEAR CHUCK: This is in response to your recent letter following your Subcommittee hearing regarding internal controls at the Department of Defense (DoD). Be assured we take this matter very seriously. I know my Comptroller, Mr. Bill Lynn, has discussed with you measures the Defense Finance and Accounting Service (DFAS) is taking to improve internal management controls.

Your letter made specific mention of the DFAS Denver Center in Colorado, and the fraud case at its subsidiary office in Dayton, Ohio. Even though the perpetrator at Dayton was caught and convicted, the case indicates weaknesses in internal management controls that must be remedied. Toward that end, DFAS has implemented a number of very specific, system-oriented improvements to strengthen existing controls, establish new controls, and ensure that published procedures are followed. In addition, we have instituted an extensive, in-depth internal review of the entire Denver Center network. DFAS also established a separate office to strengthen internal controls and ensure compliance at all levels.

DFAS, as an organization, is 7 years old and is composed of approximately 20,000 personnel located in 17 states. We should acknowledge the dedicated public servants who go out of their way every day to ensure that the taxpayers' money is protected. Bill Lynn and I will help them in every way we can to make sure that the suggestions for improvement, which have been presented in the various reports, hearings, and meetings, are evaluated and implemented where necessary.

Chuck, you and I share a common interest in protecting scarce financial resources, while supporting the great men and women of our armed forces. The hard work by you and your staff has assisted significantly in the progress we have made. We will continue to work to improve our financial management.

Sincerely,

BILL.

Mr. GRASSLEY. While Secretary Cohen and Chief Financial Officer Lynn, the nominee now under consideration, both assured me over and over that they were taking steps to tighten internal controls—I am shocked to say this—they were already quietly moving in the opposite direction. They were busy pushing other policies to weaken and undermine internal financial controls.

So I want to get into that. In 1998, when Mr. Lynn was chief financial officer, something we call pay-and-chase was the Pentagon lingo used to describe the Department of Defense vendor paying process. With pay-and-chase, the Pentagon paid bills under $2,500 first, and then worried about chasing down receipts later. You get it—pay-and-chase: pay without worrying about what you are buying or the invoice and then, after you pay, go out and find some justification for the payment.

Ever wonder why there is waste in the Defense Department? Sometimes receipts were found under pay-and-chase, sometimes not. Nobody seems to care either way. This is how the Department of Defense ended up with not $2,500 here and there but with billions of dollars in what they refer to as unmatched disbursements—another big control problem with which chief financial officer Bill Lynn was thoroughly familiar.

Pay-and-chase accurately characterized the core DFAS problem I witnessed during my review of internal controls from 1997 through 1998. I saw pay-and-chase up close and personal. Pay-and-chase was not an official policy; it was an unofficial policy. It was actively practiced but not authorized by any Government regulation or laws.

As I understand it, pay-and-chase was supposed to end in October 1997

when the Department of Defense general counsel determined it was illegal. But it did not stop. Secretary Cohen wanted to, instead, legalize pay-and-chase and make it the law of the land.

On February 2, 1998, when Mr. Lynn was chief financial officer, Secretary Cohen asked the Senate for legal authority to pay bills without receipt with no dollar limit. Now, that is pretty high up in the Department that you are deciding that we ought to have a policy to pay bills without receipts, and to do it not with a $2,500 limit but with no dollar limit. This proposal was embodied in section 401 of the Defense Reform Initiative. It was touted—can you believe it—as a measure to ''streamline'' the DOD payment process.

Fortunately, the Congress rejected this absurd and misguided legislative proposal. But you know what the thinking was at the highest levels of the Defense Department. So I discussed Secretary Cohen's pay-and-chase proposal in great detail in a speech on the floor of this body on May 5, 1998. You will find that on pages S4247 through S4250. I placed, at that time, Secretary Cohen's request in the RECORD.

So what was Mr. Lynn's position on section 401 of Secretary Cohen's Defense Reform Initiative? I asked him this question on February 5, 2009. This is what he said: He could not ''recall'' taking a position on it but agreed it was wrong ''to pay bills without a receipt.''

This seems like a real cop-out. I responded this way:

In February 1998, you had been [chief financial officer] for several months. This issue fell directly under your purview. How could you possibly avoid taking a position on an issue the Secretary of Defense was urging the Senate to adopt? As the Chief DOD Lobbyist for Raytheon, you say it was wrong. As the DOD [chief financial officer] back in 1998, why didn't you know it was wrong and speak up about it [at that time]?

My records appear to indicate that pay-and-chase continued as the unofficial policy through 1998 and eventually evolved into another more troublesome policy known as ''straight pay.'' This policy was even more dangerous for the taxpayers. The straight pay policy had much higher dollar thresholds than the old pay-and-chase plan. Believe it or not, it was a whopping half million dollars.

Straight pay was Mr. Bill Lynn's baby. This policy was personally approved by Mr. Lynn in a memorandum on December 17, 1998, and reauthorized in another memo on March 9, 1999, and possibly again later. This is that document:

Memorandum for Director, Defense Finance and Accounting Service
Subject: Prevalidation Threshold

In a memorandum dated December 17, 1998, I authorized a temporary $500,000 threshold on new contracts paid by the Mechanization of Contract Administration Services (MOCAS) system. This temporary authorization is scheduled to expire on March 22, 1999. However, while the Defense Finance and Accounting Service Columbus Center has made significant improvements in the backlog of payments, we are not at the point where we can lower the threshold to $2,500. Therefore, the temporary threshold of $500,000 is extended for another 90 days for Columbus MOCAS payments only.

I request you continue to provide me with a monthly report showing progress in resolving the current prevalidation process delays. The monthly report should include your plan to lower the threshold at the appropriate pace to reach the goal of total prevalidation by July 2000. As we improve our systems capabilities, we will continue to aggressively reduce the threshold until all payments are prevalidated.

WILLIAM J. LYNN.

On January 19, 1999, I addressed a letter to Mr. Lynn expressing grave concern about straight pay and requesting verification of certain facts surrounding this policy. The facts in question were provided to me anonymously by a DFAS employee. I wanted Mr. Lynn to check out all of this for me.

Prior to the implementation of straight pay, the DFAS center in Colombia, OH, had a prevalidation policy that required that all disbursements over $2,500 be matched with obligations or contracts prior to payment, which is the way it ought to be—well, no; it ought to be for every dollar, but at least over $2,500 it had to be matched. When an invoice was submitted to the center for payment, a DFAS technician searched the database for supporting obligations and receipts.

If supporting documentation could not be found, a red warning flag was supposedly run up the pole. Accounting due diligence was needed to confirm if this particular invoice was valid, a duplicate, or fraudulent payment. In theory, these red flags had to be resolved. As you would expect, in practice, that did not always happen.

Mr. Lynn's straight pay policy raised the prevalidation threshold by $497,500, up to finally a half million dollars. This allowed the DFAS technicians to make payments up to a half million dollars without a valid obligation. To cover these payments, technicians were ordered to create a bogus account known as negative unliquidated obligations. Now, that is a Harvard word, isn't it. But they called it NULO for short, the acronym. So we have these negative unobligated obligations. Bills were then paid from these bogus NULO accounts which carried negative balances.

Mr. Lynn's policy gave DFAS accountants up to 6 months to link the payments to valid supporting obligations in the accounting records. If valid supporting documentations could not be found in that timeframe, then the center was authorized to cover the payments with other available funds with no further investigation. This is how the unmatched disbursements of the Department of Defense were born and eventually built into the billions of dollars.

In my January 19, 1999, letter to Mr. Lynn, I drew some comparisons between straight pay and the case of Air Force SSgt Robert L. Miller. Now, Robert L. Miller may not be a very famous name to most people around here, and he would not be to me if I had not run into him through this investigation. So I wanted to draw a comparison between the straight pay policy and the case of this Air Force staff sergeant.

I think Mr. Lynn and others in the Pentagon at the time remember the Miller case, and remember it all too well, or at least they did at that time. I examined that case and several others just like it in great detail at a hearing before my Judiciary Subcommittee on Oversight on September 28, 1998.

As chief of vendor pay at a DFAS center, then-Staff Sergeant Miller had pursued his own unlawful versions of straight pay. Miller had full access to the Integrated Accounts Payable System. As such, Miller was able to manipulate Department of Defense systems to create obligations and invoices where none existed and generate nearly $1 million in allegedly fraudulent payments to his mother and his girlfriend. Miller was not apprehended because internal controls at DFAS were effective, the things that were under the control of Mr. Lynn; he was caught because a coworker blew the whistle on him. She was one of Miller's subordinates who had allegedly been sexually harassed by him.

At that time, I told Mr. Lynn—the same Mr. Lynn whose confirmation we are considering now—that his straight pay policy appeared to authorize DFAS accountants to do essentially what Staff Sergeant Miller did: create false bookkeeping entries to cover large payments in the absence of valid obligations. DFAS and Miller obviously had different goals, but there was a common denominator, and that common denominator was manipulation of the accounting system.

DFAS payment policies practiced on Mr. Lynn's watch left the barn door wide open to fraud and outright theft of the taxpayers' dollars.

The Government Accountability Office, which provided excellent support all the way through my investigation, fully agreed with this assessment.

There was another disturbing facet of the Miller case that I took up with Mr. Lynn. On October 19, 1995, the date that Staff Sergeant Miller became chief of vendor pay at the Dayton center—a position considered far above his rank—he was already under investigation in connection with, one, the alleged disappearance of Government checks at Castle Air Force Base and, two, allegedly directing at least eight fraudulent checks valued at $50,769 to his mother.

On October 26, 1995, just 1 week after Staff Sergeant Miller became chief of vendor pay at Dayton, an investigating officer at Castle Air Force Base made this recommendation about Miller:

Management should not place SSgt Miller in a position where he is entrusted with funds again . . .

After this report was issued, Miller should have been removed from his position at the Dayton center immediately. But it took 2 years, until June 1997, when Miller was arrested for allegedly stealing the million dollars.

The whole Miller story, of course, is unbelievable.

In view of his problems at Castle Air Force Base, why did the DFAS center place him in charge of vendor pay? Why did DFAS keep him there after an official report indicated he could not be trusted with the money? That makes as much sense as hiring a bank robber to be the bank teller.

On September 18, 1998, I wrote another letter that I have. This is letter No. 9, which I ask unanimous consent be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 18, 1998.

Hon. WILLIAM J. LYNN III,
Comptroller and Chief Financial Officer, Pentagon, Washington, DC.

DEAR BILL: I am writing to thank you for providing the ''Investigation of Major Loss of Funds'' at Castle AFB involving Staff Sergeant (SSGT) Robert L. Miller, Jr. and to raise several additional questions.

I am very disturbed by what I found in the investigative report on the disappearance of U.S. Treasury checks at Castle AFB. The very obvious red warning flag raised by this report was totally ignored by management at the Defense Finance and Accounting Service (DFAS).

The report states that ''SSGT Miller was negligent in the loss of the two treasury checks entrusted to him.'' It says: ''He breached his duty,'' and it says ''he failed to safeguard his funds.'' For a military pay agent, that would normally be a death sentence. And if those words didn't ruin SSGT Miller's career in money matters forever, the report's recommendation number one should have done it. The investigating officer recommended that: ''Management should not place SSGT Miller in a position where he is entrusted with funds again. . . .'' Those are strong words.

The recommendation that SSGT Miller not be trusted with money again was made on October 26, 1995. That recommendation came exactly one week after SSGT Miller was ''forced'' into a position at the DFAS/Dayton finance center that was far above his rank. A much more senior civilian—Mr. Chuck Tyler—who occupied that position, was summarily removed to make room for SSGT Miller. Although official organizational charts indicate that SSGT Miller was just Chief of the Data Entry Branch, officials familiar with SSGT Miller's operation contend that he was, in fact, Chief of the entire Vendor Pay Department. In that position, he had direct control over billions of dollars in payments. In addition, for unknown reasons, SSGT Miller was given unrestricted access to the check generating system known as the Integrated Accounts Payable System or IAPS. This was a clear violation of internal control procedures. His predecessor—Mr. Tyler—had much more limited access.

On October 19, 1995—the date on which SSGT Miller was ''forced'' into Mr. Tyler's position, SSGT Miller was under active investigation for the disappearance of a large sum of money at Castle AFB. Unfortunately, his suspicious and improper conduct at Castle was not limited to the two missing Treasury checks. He had also generated at least 8 fraudulent checks worth $50,769.00, which were addressed to his mother, Ruby J. Miller. Only these facts were apparently not known at the time. Furthermore, on October 19, 1995, he was just a few days away from generating his first fraudulent check at Dayton. This one was for $12,934.67 and was also addressed to his mother.

All the new information that surfaced in connection with SSGT Miller's court-martial clearly shows that the investigating officer's concerns about SSGT Miller and money were based on sound judgement. SSGT Miller could not be trusted with money again. If the investigating officer's advice had been followed, SSGT Miller's criminal activities could have been brought to a screeching halt in October 1995 instead of June 1997. In November 1995, a trusted employee at the Dayton center, Mr. Otas Horn, even warned Colonel Berger about the dangers of placing SSGT Miller in Mr. Tyler's position with unrestricted access to IAPS. This early warning was followed by repeated reports of criminal conduct at Dayton throughout 1996, including an internal DFAS memo signed by Mr. Nabil, Director of the Denver Center, on September 30, 1996. Most involved fraudulent documents created in SSGT Miller's section. All involved criminal conduct—violations of 18 U.S.C. 1001—as noted in Mr. Nabil's memo. Why didn't DFAS management report this criminal activity to the law as required by every rule in the book?

Bill, I would like to return to the investigating officer's recommendations: ''Management should not place SSGT Miller in a position where he is entrusted with funds again. . . .'' When this report was issued, SSGT Miller should have been removed from his new position at Dayton—on the spot. Who in SSGT Miller's chain of command at Dayton was responsible for acting on the findings and recommendations in the investigative report? Was it Mr. Nabil? Was it the Commander at Dayton, Colonel Berger? Or was it Captain Brown, SSGT Miller's immediate supervisor? Who at Dayton had knowledge of this report? Who in DFAS management was responsible for totally ignoring this very dangerous red warning flag?

Bill, the responsible person or persons in your organization need to be held accountable for ignoring obvious and repeated warning signals about SSGT Miller's trustworthiness and giving him unrestricted access to your department's money vault.

I respectfully request a response to my questions by September 23, 1998.

Sincerely,
CHARLES E. GRASSLEY, *Chairman,*
Subcommittee on Administrative Oversight and the Courts.

Mr. GRASSLEY. I wrote this letter to Mr. Lynn and asked him two questions: Who at Dayton—that means the financial center at Dayton—had knowledge of the Castle Air Force Base report on Miller? Who in the finance center management was responsible for totally ignoring this very dangerous red warning flag? I ended my letter to Mr. Lynn this way:

Bill, the responsible person or persons in your organization need to be held accountable for ignoring obvious and repeated warning signals about SSGT Miller's trustworthiness and giving him unrestricted access to your department's money vault.

I asked for answers to these two questions by September 23, 1998. That would have been 5 days after I wrote the letter. None ever arrived, as far as I know.

When I did not get a prompt response to my January 19 letter to Mr. Lynn on straight pay, I raised those same issues with Secretary Cohen. I did that at a hearing before the Budget Committee on March 2, 1999. This is what Secretary Cohen said at the time:

There is no authorized procedure called Straight Pay.

Now, get that. You have straight pay that people talk about, and you have a Secretary of Defense saying there is no authorized procedure called straight pay.

The process described is not correct and is not authorized.

These answers do not square with the evidence I have tried to lay out.

Then, on March 9, came further explanation from Chief Financial Officer Lynn. He said essentially the same thing but with a slightly different twist:

The Straight Pay policy you refer to in your letter is not used at our Columbus Center. . . .

There are some words left out. It goes on to say:

''Straight Pay,'' as reported to you, does not exist at the Columbus Center.

This letter No. 10 explains that in great detail, and I ask unanimous consent to have printed in the RECORD letter No. 10.

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

UNDER SECRETARY OF DEFENSE,
Washington, DC, March 9, 1999.

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

DEAR SENATOR GRASSLEY: This is in reply to your recent letter on my decision to raise the prevalidation dollar threshold for payments of contracts paid using the Mechanization of Contract Administration System (MOCAS) at the Defense Finance and Accounting Service (DFAS) Columbus Center.

In the prevalidation plan that we submitted to Congress, we stated we would gradually lower the threshold until all payments were prevalidated by July 2000. We took an aggressive approach in our attempt to reach the goal of 100 percent prevalidation before July 2000. Contracts awarded before FY 1997 are now prevalidated at the current statutory level of $1,000,000. Since March 1997, we have attempted to prevalidate all contracts above $2,500 that were issued in FY 1997 and later.

Unfortunately, we could not sustain the new prevalidation level in MOCAS and meet our obligations under the Prompt Payment Act. The imposition of the $2,500 prevalidation threshold, together with other factors, caused critical delays in our connector payments. In December 1998, after carefully considering the need to reduce our payment backlogs while complying with the Prompt Payment Act, I temporarily raised the prevalidation dollar threshold to $500,000 for centrally administered contracts paid through MOCAS. I also recently extended this threshold increase until June 1999. However, we still plan to meet our July 2000 goal to prevalidate all payments. We will continue to lower the prevalidation threshold, but at a deliberate pace to achieve our goal

of prevalidating all payments by July 2000 and ensuring compliance with the Prompt Payment Act.

The ''Straight Pay'' policy you refer to in your letter is not used at our Columbus Center. Before a payment is made in Columbus using MOCAS, the system must have entries that validate a contract exists, an invoice has been presented, and goods or services have been received or accepted. Increasing the prevalidation threshold does not waive the requirement to have these items before a payment is made. In addition, MOCAS does not allow one person to enter all three data elements into the system. I have enclosed a description of the MOCAS payment process. I believe that after you review our contract payment process, you will agree that some critical elements of the process were not provided to you and that ''Straight Pay,'' as reported to you, does not exist at the Columbus Center.

You also expressed concern that with the threshold raised to $500,000, DFAS experience the same type of fraud in MOCAS that SSgt Miller perpetuated using the Integrated Accounts Payable System (IAPS) in Dayton. The MOCAS payment environment is significantly different from the IAPS environment. The MOCAS system architecture does not permit multiple levels of access. The internal controls built into MOCAS that force separations of functions all but eliminate the possibility of one person creating fraudulent payments.

I am still committed to reaching the goal of total prevalidation by July 2000. As we improve our systems capability, we will combine to aggressively reduce the threshold until all payments are prevalidated. I appreciate your interest and look forward to working with you to improve our operations.

Sincerely,

WILLIAM J. LYNN.

Mr. GRASSLEY. I felt as though then-Secretary Cohen on the one hand and Chief Financial Officer Lynn were trying to convince me that straight pay did not exist. Their statements appear to be, even today, misleading and inaccurate.

Just because I didn't explain the policy exactly right did not mean the policy did not exist. Everything that was coming over the transom at night to me was telling me that I was on the right track.

I responded to the denials this way—and they are in this letter, my letter No. 11. I wish to quote a couple of sentences:

If this statement is indeed accurate—and ''Straight Pay'' doesn't exist, then why do I have official DFAS documents establishing ''Straight Pay Procedures?'' Are these documents a fake?

Are these documents I am getting a fake if they come directly from the financial center?

I later discovered another DFAS document, dated March 8, 1999, which states:

Due to concerns over the use of the term ''straight pay'' and its connotation, we must delete all references to ''straight pay'' the from the policy. . . .

Now, how does that square with what the Secretary of Defense Cohen told me? How does that square with the exchange I had with Bill Lynn, Chief Financial Officer at that time? Those things are in this document No. 12.

I ask unanimous consent to have document No. 12 printed in the RECORD.

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

DEFENSE FINANCE AND ACCOUNTING SERVICE,
March 8, 1999.

MEMORANDUM FOR SEE DISTRIBUTION

Subject: Policy for Processing Unmatched Disbursements

Effective November 1, 1999, you were authorized to post unmatched disbursements (UMDs) without posting a negative unliquidated obligation (NULO) offset for transactions meeting criteria described in the attached policy. Due to concerns over the use of the term ''straight pay'' and its connotation, we must delete all references to ''straight pay'' from the policy, and clarify that the policy does not create an environment for fraudulent payments. Terms such as unmatched disbursements or direct disbursements were substituted.

Operating location (OPLOC) recommendations to add other categories under paragraph F, ''Unmatched Disbursements Which May Be Recorded Without Research, Approval, and NULO Offset,'' were incorporated. For example, Fund Type K transactions for Deposit/Suspense Accounts and disbursements posted under processing center ''Y,'' etc., were added. The inclusion of these categories did not change the intent or scope of the policy. We also clarified that for disbursements made against obligations recorded as Miscellaneous Obligation Reimbursement Documents (MORD) where the difference exceeds $3,000, Financial Service Office/Accounting Liaison office (FSO/ALO) approval is not required, but the FSO/ALO should be notified within 4 work days.

The revised policy is attached for your action. OPLOCs will continue to maintain a log on unmatched disbursements requiring FSO/ALO review. Copies of attached Missing Commitment/Obligation form (Atch 1) may be kept in lieu of a log.

We are requesting you to submit another report from the log statistics you gather for UMDs processed between February 1—May 31, 1999. The UMD Report, in Excel 5.0 format, is due to DFAS-DE/ASP on June 11, 1999. Please submit report via cc:mail to address indicated on attached report format. At that time we will decide whether another reporting cycle is necessary.

These procedures were coordinated with the Office of the Assistant Secretary of the Air Force for Financial Management-Air Force Accounting and Finance Office (AFAFO/FMF). If you have any questions, my project officer is Ms. Mirta Valdez, DFAS-DE/ASP, (303) 676–7708 or DSN 926–7708.

SALLY A. SMITH,
Dierctor for Accounting.

Mr. GRASSLEY. I say to my colleagues, is the March 8, 1999, date on this document a coincidence or was this a bureaucratic tactic to suppress, to bury or to rename the policy to conform with the highest level of rhetoric that I heard in March of that year?

Not getting the straight story from the Pentagon, I brought the issue of straight pay to the attention of one of our colleagues now and a colleague back then, Senator INHOFE, who was chairman of the Readiness Subcommittee on Armed Services. My letter to Senator INHOFE is dated April 8, 1999, and I have that letter here as No. 13 document.

I ask unanimous consent to have document No. 13 printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 8, 1999.

Hon. JAMES M. INHOFE,
Chairman, Subcommittee on Readiness and Management Support, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR JIM: In view of your upcoming hearing on financial management at the Department of Defense (DOD) along with my continuing interest in these matters, I am submitting several questions bearing on internal control issues for your consideration.

Back on January 19, 1999, I wrote a letter to DOD's Chief Financial Officer (CFO), Mr. Bill Lynn, to verify certain facts pertaining to a policy known as ''straight pay.'' The facts in question were provided anonymously by an employee at the Defense Finance and Accounting Service (DFAS). In a nutshell, this policy authorizes DFAS to make payments up to $500,000.00 when no corresponding obligation or contract could be located in the database or otherwise identified. When bills are paid in the absence of contracts, how does DFAS know how much money, if any, is owed? As I understand it, this policy was personally approved by Mr. Lynn.

In my mind, this is a very dangerous policy. But it is not only dangerous. It is also misguided, and it may violate the law. It is certainly helping to erode one of the last visible traces of internal controls at DOD, and its continued use will undermine any hope of a ''clean'' audit opinion on the department's annual financial statements—as required by the Chief Financial Officers Act.

Last year, during my investigation of the breakdown of internal controls at DOD, I learned that Air Force Staff Sergeant (SSGT) Robert L. Miller, Jr. had pursued his own version of ''straight pay'' while Chief of Vendor Pay at DFAS' Dayton center during 1995–1997. With full access to the Integrated Accounts Payable System, SSGT Miller was able to create obligations, where none existed, and generate nearly a $1,000,000.00 in fraudulent payments to his mother and girlfriend. Now, Mr. Lynn's ''straight pay'' policy authorizes DFAS technicians to do exactly what SSGT Miller did—create false bookkeeping entries to cover large payments in the absence of supporting contracts. This policy leaves the door wide open to fraud and mismanagement.

I am attaching a copy of my letter to Mr. Lynn on ''straight pay'' dated January 19, 1999. Since Mr. Lynn never answered this letter, I had to verify the facts on my own in consultation with the General Accounting Office. According to a March 8, 1999 DFAS memorandum, Mr. Lynn's ''straight pay'' policy is still in place today, though its name has been changed to avoid any negative connotations. DFAS is concerned that the term ''straight pay'' may suggest a permissive ''environment for fraudulent payments.''

I would very much appreciate it if you would place a copy of my letter in the hearing record and raise my enclosed questions on DOD's ''straight pay'' policy. My questions should be directed to Mr. Lynn.

Again, thank you very much for giving me the opportunity to submit questions for your upcoming hearing on DOD Financial Management problems.

In addition, in the very near future, I expect to be submitting ''a legislative reform package'' to you and other colleagues for consideration. The rationale for this draft legislation is outlined under the heading ''The Need for DOD Financial Reforms'' on pages 25 to 29 of the Budget Committee's report on the Concurrent Resolution on the

Budget for FY 2000 (Senate Report No. 106–27).

I look forward to having Mr. Lynn's responses to my questions on ''straight pay'' and working with you in the future on these matters.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. I told my friend from Oklahoma that I considered straight pay to be ''a very dangerous and misguided policy that might violate the law.'' I also told him about the Miller case heretofore referenced. I urged Senator INHOFE to ask Secretary Cohen and Chief Financial Officer Lynn five questions on straight pay at an upcoming hearing.

Mr. Lynn attempted to clarify the Department of Defense position on straight pay in a letter dated June 18, 1999. That is document No. 14.

I ask unanimous consent to have document No. 14 printed in the RECORD.

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

UNDER SECRETARY OF DEFENSE,
Washington, DC, June 18, 1999.

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

DEAR SENATOR GRASSLEY: This is in reply to your recent letter to the Honorable William S. Cohen, Secretary of Defense, concerning the Department of Defense responses to your questions submitted for the record following a March 2, 1999, hearing before the Senate Budget Committee. Enclosed is the Department's response to your questions.

Sincerely,

WILLIAM J. LYNN.

Enclosure.

RESPONSES TO THE QUESTIONS OF SENATOR CHARLES E. GRASSLEY

Question. The General Accounting Office (GAO)—in report No. AIMD–99–19—states that Mr. Hamre's policy authorizes the Navy to delay recording obligations in excess of available budget authority for up to five years. The GAO further indicates that the purpose of the policy allowing such delays in recording obligations in the books of account is to avoid a potential over obligation and violation of the Antideficiency Act. Are these two statements accurate and correct?

Answer. The policy referenced in GAO report No. AIMD–99–19 is not intended to and, in fact, in no way does, shield any DoD Component from a violation of the Antideficiency Act. Similarly, in no instance is the policy intended to allow any DoD Component to willingly defer the recording of a known valid obligation in excess of available budget authority.

The Department's policies require that an obligation be established at the time a contract is entered into or a good or service is ordered, and to be recorded within 10 days of the date on which the obligation is incurred. Additionally, prior to making a disbursement, the applicable technician is required to verify that an appropriate contract or other ordering instrument exists, that a government official has verified that the goods or services have been received and that a proper invoice requesting payment has been received. Also, depending on the amount of the payment, the technician may be required to prevalidate an obligation. (Prevalidation is the process of checking to ensure that a matching obligation has been recorded in the accounting records prior to making a disbursement.) Additionally, the technician also is required to identify the proper appropriation to be charged and the accounting office responsible for the related obligation. Further, the disbursement should be matched to the applicable obligation at the time the disbursement is made, if feasible, or as soon thereafter as is feasible.

The GAO report referred to above addresses in-transit disbursements. In-transit disbursements occur when the paying office (the office making the disbursement) is different than the accounting office (the office accounting for the obligation). In such instances, in addition to determining the existence of a contract or ordering document and verifying the receipt of the goods or services before making the payment, and deducting the amount of the payment from the cash balance of the appropriation involved, the paying office also must forward the disbursement information to the accounting office to enable the disbursement to be recorded against the related obligation. (Only the applicable accounting office, and not the paying office, can record a disbursement against its related obligation. Thus, this latter action is required irrespective of whether the disbursement was prevalidated prior to payment.)

Since the amount of in-transit disbursements is deducted from the cash balance of the applicable appropriation at the time of disbursement, the Department can determine if the cash balance of the appropriation involved is positive or negative. Since a negative cash balance is an indication of a potential Antideficiency Act violation, if an appropriation has a negative cash balance, the Defense Finance and Accounting Service is required to stop making any further payments chargeable to the appropriation. Additionally, the DoD Component involved is required to initiate an investigation of a potential Antideficiency Act violation. Except in very rare instances, in-transit disbursements do not result in a negative cash balance in the applicable appropriation. Since the appropriations charged have a positive cash balance that means that amounts disbursed from those appropriations are not in excess of available budget authority.

As stated above, when the paying office is different than the accounting office, the paying office must forward the disbursement information to the accounting office to enable the disbursement to be recorded against the related obligation. During the time that the information is being transmitted from the paying office to the accounting office the information is said to be in-transit, and the disbursement is said to be an in-transit disbursement. Once the information is received by the accounting office, the accounting office attempts to match the disbursement to an obligation, and the disbursement no longer is considered to be an in-transit disbursement. At that point, the disbursement becomes a matched disbursement, an unmatched disbursement or a negative unliquidated obligation.

Over 90 percent of in-transit disbursements are matched to an obligation within 60 days of arriving at the applicable accounting station. However, in some instances the information does not arrive at the applicable accounting office or the information that does arrive is not sufficient to allow the applicable accounting office to attempt to match the disbursement to an obligation. In such circumstances, the accounting office must take additional steps to research and obtain the information required to allow it to attempt to match the disbursement to an obligation.

Until the 1990s, the Department had no policy regarding such research efforts and did not require that obligations be recorded for unresolved in-transit disbursements. The policy addressed in the referenced GAO report recognized that, consistent with DoD policy, in most instances, obligations are established at the time an applicable contract is entered into or goods or services are ordered. However, in those instances where an accounting office does not receive detailed information on an in-transit disbursement, this lack of detailed information often precludes the accounting office from being able to attempt to identify the disbursement to an obligation. Establishment of a new obligation for such disbursements, in many instances, could result in a duplicate obligation. In order to avoid such duplicate obligations, the Department allows the DoD Components time to conduct additional research. Often, this requires a considerable period of time and involves significant manual research. This is especially so for those in-transit disbursements made by one of the over 300 former paying offices that now have been closed.

Question. If a bill for $499,999.99 is submitted to the Defense Finance and Accounting Service (DFAS) Columbus Center for payment and the responsible technician is unable to identify a matching obligation, and Mr. Lynn's waiver is used to authorize the payment, exactly how is the payment posted in the books of account? Without a valid, matching obligation, there are just three options: (a) post it to a bogus account; (b) post it to the wrong account; or (c) don't post it. How does DFAS do it?

Answer. In the example described above, the technician at the DFAS Columbus Center would not be required to validate that an obligation was recorded in the official accounting records prior to making the payment because the dollar amount would be below the prevalidation threshold amount in effect at the DFAS Columbus Center. (However, at any DFAS location other than the Columbus Center, this amount would be above the prevalidation threshold amount and the technician would be required to match the proposed disbursement to the applicable obligation prior to making the disbursement.) Although in the above example, the technician at the DFAS Columbus Center would not be required to match the payment to an obligation prior to payment, the technician would be required to determine that the payment otherwise is valid. This would require that the technician verify that an appropriate contract or other ordering instrument exists and that a government official verified that the goods or services were received. Also, the technician would be required to identify the proper appropriation to be charged and the accounting station where the related obligation is recorded. Generally, this information would reside, and could be found, in the payment system at the DFAS Columbus Center.

Irrespective of whether a disbursement is matched to an obligation prior to payment, once a payment is made by the DFAS Columbus Center, the amount of the disbursement would be deducted from the cash balance of the applicable appropriation charged and information concerning the disbursement would be forwarded to the applicable accounting station. When that information arrived at the applicable accounting station, the accounting station would: match the disbursement to the applicable obligation recorded in the accounting system; or if the amount of the disbursement exceeded the amount of the applicable obligation, match the disbursement to the applicable obligation but record a negative unliquidated obligation against the same account for the amount of the difference between the disbursement and the obligation; or if no corresponding obligation record can be found in

the accounting system, treat the disbursement as an unmatched disbursement.

Question. While the DFAS attempts to identify the matching obligation, is the payment placed in the ''in-transit'' status?

Answer. The Columbus Center, using the Department's existing finance network, would forward information on the disbursement to the applicable accounting station. That information would be considered to be ''in-transit'' for the period of time necessary for the information to be forwarded from the Columbus Center to the applicable accounting station. Once the information arrived at the accounting station, the accounting station would match the disbursement to the applicable obligation and the transaction no longer would be considered to be in an in-transit disbursement.

Question. If a valid, matching obligation cannot be found, how is the problem resolved?

Answer. If a valid, matching obligation cannot be found, the disbursement is treated as an unmatched disbursement. In the case of an unmatched disbursement, the applicable accounting station and DoD Component involved are given 180 days to conduct research to identify the matching obligation. If, after the 180-day period, a valid matching obligation cannot be found, the DoD Component involved is required to establish a new obligation for the disbursement.

Mr. GRASSLEY. In his followup letter, Mr. Lynn backed away from his assertion that straight pay did not exist. So they said it didn't exist, and now you see an assertion backing away from that. While he never used the term ''straight pay,'' he did not try to disassociate himself from the policy. His description of the policy was generally accurate, though somewhat incomplete.

I raised essentially the same question with Mr. Lynn in a recent letter, dated January 29, 2009, because of his appointment to this position of Deputy Secretary of Defense. Regrettably, he provided essentially the same answers in a letter dated February 3, 2009.

I ask unanimous consent to have printed in the RECORD those two letters, documents 15 and 16.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, January 29, 2009.

Mr. WILLIAM J. LYNN,
Senior Vice President, Raytheon Company, Arlington, VA.

DEAR MR. LYNN: I am writing to follow-up on six questions I submitted for the record at your nomination hearing before the Senate Armed Services Committee earlier this month.

Two of my questions pertain to a potential conflict of interest flowing from your status as a registered lobbyist with the Raytheon Company. Four of the questions pertain to your efforts as the Department of Defense (DOD) Chief Financial Officer (CFO) to bring the department into compliance with the CFO Act. I am eagerly waiting for your answers to my six questions.

Since submitting those questions for the record, I have had an opportunity to retrieve and examine certain archived files on DOD financial management issues that I investigated in the late 1990's while you were the DOD CFO and Comptroller. I came across two files of particular interest as follows: 1) ''Straight Pay;'' and 2) ''Pay and Chase.'' These are DOD payment policies that were either attributed to you and/or adopted while you were the department's Chief Financial Officer in charge of such matters. My follow-up questions pertain to these matters.

In 1998, when you were CFO, ''Pay and Chase'' was a term used to describe DOD vendor payment policy. With ''Pay and Chase,'' the Pentagon paid bills first and worried about tracking down the receipts later. Sometimes receipts were found; sometimes not; And sometimes no effort was made to look. This is how DOD ended up with billions of dollars in unmatched disbursements. As I understand it, this was SOP when you were CFO. It was unofficial policy. It was practiced but not authorized in government regulations or law.

Secretary of Defense Cohen attempted to legalize ''Pay and Chase.'' He wanted to make it the law of the land. He forwarded his proposal to the Senate on February 2, 1998 as part of a larger package of so-called defense reforms. At that point in time, you were CFO, and this matter fell directly under your area of responsibility. ''Pay and Chase'' was just one small piece of the Defense Reform Act of 1988—also known as the Defense Reform Initiative (DRI). ''Pay and Chase'' was embodied in Section 401 of that bill. It was touted as a measure to ''streamline'' DOD payment practices.

Section 401 would have authorized DOD to pay bills without receipts with no dollar limit. It would have required only random after-the-fact verification of some receipts. And it would have relieved disbursing officers of all responsibility for fraudulent payments that might have resulted from the policy.

There is nothing in my files to indicate Section 401 of Secretary Cohen's DRI became law. I believe ''Pay and Chase'' continued as an unofficial policy and evolved into another troublesome one known as ''Straight Pay.'' This policy was initially approved by you in a signed memorandum on December 17, 1988.

On January 19, 1999, I wrote to you, expressing grave concern about ''Straight Pay.''

Prior to the implementation of ''Straight Pay,'' the Defense Finance and Accounting Center (DFAS), Columbus, Ohio had a pre-validation policy that required all disbursements over $2,500.00 be matched with obligations prior to payment. When a bill was submitted to the center for payment, a technician searched the database for the supporting obligation or contract. If one could not be found, a red warning flag was allegedly run up the pole. Was it a duplicate or fraudulent payment? Your ''Straight Pay'' policy raised the pre-validation threshold to $500,000.00. ''Straight Pay'' allowed the technician to ignore the warning signals and make payments up to $500,000.00 without checking documentation. Then the accountants at the center were directed to create bogus accounts for negative unliquidated obligations or ''NULO'' to cover the payment. The bill was then paid from the bogus account with a negative balance. The center had six months to locate valid supporting obligation. If a valid, matching obligation could not be found within that time frame, then the center would cover the payment with other available funds with no further investigation.

In my letter to you, I drew some comparisons between ''Straight Pay'' and the scenario in the case of Air Force Staff Sergeant (SSGT) Robert L. Miller, Jr. You may remember the Miller case. I examined that case—and others like it—in great detail at a hearing before my Judiciary Oversight Subcommittee on September 28, 1998. As Chief of Vendor Pay at another DFAS Center, SSGT Miller had pursued his own version of ''Straight Pay.'' With full access to the Integrated Accounts Payable System, SSGT Miller was able to create obligations, where none existed, and to generate nearly a $1,000,000.00 in allegedly fraudulent payments to his mother and girlfriend. He was not caught until a co-worker blew the whistle.

Mr. Lynn, on the surface at least, your ''Straight Pay'' policy appeared to authorize DFAS technicians to do essentially what SSGT Miller allegedly did—create false bookkeeping entries to cover large payments in the absence of supporting documentation. Your policy left the barn door wide open to fraud and mismanagement. At the time, the General Accounting Office agreed with that assessment.

Also, at the time, I told you and other senior officials—and spoke extensively about this problem on the floor—that ''Straight Pay'' was a dangerous, misguided, irresponsible, and unbusinesslike policy. Furthermore, it was totally inconsistent with various provisions of Title 31 of the U.S. Code, Money and Finance.

American taxpayers deserved to know that their hard earned money was being protected and properly accounted for under your leadership at DOD. So please help me understand your position on ''Straight Pay.'' It seemed to be completely inconsistent with your responsibilities under the CFO Act. As CFO, how could you endorse such a policy?

Your prompt response to my questions would be appreciated,

Sincerely,

CHARLES E. GRASSLEY,
Ranking Member.

FEBRUARY 3, 2009.

Hon. CHARLES E. GRASSLEY,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for your letter of January 29, 2009 concerning my tenure as Under Secretary of Defense (Comptroller) and Chief Financial Officer from November 1997 to January 2001. You asked specifically about two payment practices: ''Pay and Chase'' and ''Straight Pay''.

The Denver Center of the Defense Finance and Accounting Service (DFAS) initiated the ''Pay and Chase'' pilot 'in early 1997 in order to achieve more timely payments. It was a limited test that allowed certain payments under $2,500 to be made based on matching a proper invoice to the corresponding contract. Receipt and acceptance was followed up after the payment was made. The pilot was discontinued by October 1997 when the DoD General Counsel and DFAS General Counsel found that matching a proper invoice and contract alone was not legally sufficient to make a payment. The Department proposed legislation to Congress in 1998 called Verification After Payment that would have authorized making payments from the invoice/contract match, but that request was later dropped without Congressional action.

''Straight Pay'' is an informal term used to describe the practice of making payment based on a three way match of a proper invoice, receiving report and contract when an obligation has not yet been recorded in the accounting records. ''Straight Pay'' recognizes the government's legal obligation to make payment and was used to ensure contractors were paid on time and to reduce payment backlogs and associated interest penalties due to late payments. Under ''Straight Pay'' policies, payments could not be made on an invoice alone. But if DFAS had a proper invoice together with a valid contract for the goods/services and a valid receiving report that the goods/services had been delivered, payment could be made without a matching obligation. DFAS then contacted the Military Services to update the

accounting records, ensuring that the expenditure was recorded and valid.

The Defense Department has two important obligations: to ensure that those who provide goods and services to the Department are paid on time pursuant to the Prompt Payment Act and to make certain there are proper controls that ensure the Department has received the goods and services pursuant to a valid contract. At a time when the Department faced a backlog of unpaid invoices and mounting interest costs due to late payments, ''Straight Pay'' was an attempt to draw the right balance between those objectives by reducing late payments while still ensuring that the Department had received what it paid for and that the accounting records were accurate.

Best practices require that all proper invoices be matched with a receiving report and contract, and that the obligation be prevalidated in the accounting records prior to payment. The Department made progress toward this pre-validation objective while I was Under Secretary. And I understand that further progress has been made since I left. If confirmed, I will work with the Chief Financial Officer and the Military Departments to achieve this important goal.

Finally, you raised the case of Air Force Staff Sergeant Robert L. Miller, who defrauded the Department in a series of activities between October 1994 and June 1997. The Miller case did not actually involve ''Straight Pay''. It did, however, expose significant internal control weaknesses within both DFAS and the Air Force. As a consequence of the Miller case, I directed DFAS to take a series of corrective actions, including revising internal control guidance to ensure better segregation of duties, reviewing and adjusting vendor payment access to the minimum number of personnel needed to properly conduct business, ensuring proper documentation existed to pay invoices, and correcting deficiencies in computer system security. In addition, DFAS in November 1999 established an Internal Review office to examine its systems and operations for weaknesses and potential cases of fraud.

As you requested, I have also included answers to the six questions you submitted for the record after my nomination hearing on January 15, 2009. Looking ahead, if confirmed as Deputy Secretary of Defense, I will do my utmost to strengthen the Department's financial management and internal controls designed to prevent fraud. I will also work to accelerate the modernization and integration of the Department's management information systems. From my earlier DoD tenure, I know the obstacles to achieving this, but I also know its vital importance. In this era of increasing fiscal strain, financial stewardship at the Department of Defense is essential, and I look forward to making that happen.

Sincerely,

WILLIAM J. LYNN, III.

SENATE ARMED SERVICES COMMITTEE

QUESTIONS FOR THE RECORD

(To consider the following nominations: William J. Lynn III to be Deputy Secretary of Defense; Robert F. Hale to be Under Secretary of Defense (Comptroller) and Chief Financial Officer; Michèle Flournoy to be Under Secretary of Defense for Policy; and Jeh Charles Johnson to be General Counsel, Department of Defense. Witnesses: Lynn, Hale, Flournoy, Johnson)

Senator Chuck Grassley

FINANCIAL MANAGEMENT

93. Mr. Lynn, as the Under Secretary of Defense (Comptroller), you were the Department's Chief Financial Officer (CFO). That position was established by the CFO Act of 1990. Section 902 of the CFO Act states: ''The CFO shall develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls.'' This requirement existed for at least 5 years before you became the DOD CFO. While you were CFO, did DOD operate a fully integrated accounting and financial management system that produced accurate and complete information? If not, why?

Answer: The DoD financial and business management systems were designed and created before the CFO Act of 1990 to meet the prior requirements to track obligation and expenditure of congressional appropriations accurately. The CFO Act required the Department to shift from its long-time focus on an obligation-based system designed to support budgetary actions to a broader, more commercial style, accrual-based system. To accomplish this transformation, several things needed to be done. First, the Department created the Defense Finance and Accounting Service (DFAS) to consolidate financial operations, which was accomplished in 1991 before my tenure as Under Secretary. Second, the Department had too numerous and incompatible finance and accounting systems. From a peak of over 600 finance and accounting systems, I led an effort to reduce that number by over two thirds. This consolidation effort also strove to eliminate outdated financial management systems and replace them with systems that provided more accurate, more timely and more meaningful data to decision makers. The third and most difficult step in developing an integrated accounting and financial management system has been to integrate data from outside the financial systems. More than 80 percent of the data on the Defense Department's financial statement comes from outside the financial systems themselves. It comes from the logistics systems, the personnel systems, the acquisition systems, the medical systems and so on. On this effort, we made progress while I was Under Secretary but much more needs to be done. If confirmed, I will take this task on as a high priority.

94. Mr. Lynn, under section 3515 of the CFO Act, all agencies, including DOD, are supposed to prepare and submit financial statements that are then subjected to audit by the Inspectors General. While you were the CFO, did DOD ever prepare a financial statement in which all DOD components earned a ''clean'' audit opinion from the DOD IG? If not, why?

Answer: In the 1997, the Department of Defense had twenty-three reporting entities, only one of which, the Military Retirement Fund, had achieved a clean audit. Over the next four years, the Department under my leadership as Under Secretary earned a ''clean'' opinion on three other entities: most importantly, the Defense Finance and Accounting Service in 2000, followed by the Defense Commissary Agency and the Defense Contract Audit Agency in 2001. We were unable to obtain clean opinions on the other reporting entities. The primary reason for not earning clean opinions on the remaining entities was the difficulty of capturing data from non-financial systems and integrating that data into the financial systems in an auditable manner. It is my understanding that the Department still faces the challenge of integrating financial and non-financial systems to support the auditability of the DOD financial statements.

95. Mr. Lynn, as CFO, what specific steps did you take to correct this problem?

Answer: Under my leadership, the DOD instituted several important efforts to achieve a ''clean'' audit opinion. The primary effort was described in the Biennial Financial Management Improvement Plan (FMIP) which was submitted to Congress in 1998. That plan merged previous initiatives with new ones into a single comprehensive effort to achieve both financial management improvement and auditability. To directly address auditability, the FMIP included an effort in collaboration with the Office of Management and Budget, the General Accounting Office, and the Office of the Inspector General to address ten major issues identified by the audit community: 1) internal controls and accounting systems related to general property plant and equipment; 2) inventory; 3) environmental liabilities; 4) military retirement health benefits liability; 5) material lines within the Statement of Budgetary Resources; 6) unsupported adjustments to financial data; 7) financial management systems not integrated; 8) systems not maintaining adequate audit trails; 9) systems not valuing and depreciating property, plant and equipment; and 10) systems not using the Standard General Ledger at the transaction level. Due to this effort, substantial progress was made on most of these issues and several were resolved, including valuation of the military retirement health benefits liability, the reduction of unsupported adjustments to financial data, and the identification of environmental liabilities.

96. Mr. Lynn, 18 years after the CFO Act was signed into law, DOD is still unable to produce a comprehensive financial statement that has been certified as a ''clean'' audit. It may be years before that goal is met. If DOD's books cannot be audited, then the defense finance and accounting system is disjointed and broken. Financial transactions are not recorded in the books of account in a timely manner and sometimes not at all. Without accurate and complete financial information, which is fed into a central management system, DOD managers do not know how the money is being spent or what anything costs. That also leaves DOD financial resources vulnerable to fraud, waste and abuse, and even outright theft. The last time I looked at this problem billions—and maybe hundreds of billions—of tax dollars could not be properly linked to supporting documentation. As Deputy Secretary of Defense, what will you do to address this problem? Please give me a realistic timeline for fixing this problem.

Answer: The Department needs stronger management information systems. I can assure you that, if confirmed, I will be committed to improving financial information and business intelligence needed for sound decision making. I have not yet completed my review of all the information needed to provide a specific timeline; however, I will continue to examine this issue, including consideration of this and other Committees' views as well as the resources needed for the audit, before forming my assessment of how close DoD is to a clean audit.

POTENTIAL CONFLICT OF INTEREST

97. Mr. Lynn, as a Senior Vice President of Government Operations at the Raytheon Company, you were a registered lobbyist until July 2008. Correct? How long were you a registered lobbyist?

Answer: I was a registered lobbyist for Raytheon from July 2002 to March 2008.

98. Mr. Lynn, in his ''Blueprint for Change,'' President-elect Obama promises to ''Shine Light on Washington Lobbying.'' He promises to ''Enforce Executive Branch Ethics'' and ''Close the Revolving Door.'' He promises: ''no political appointees in an Obama-Biden administration will be permitted to work on regulation or contracts directly and substantially related to their prior employer for 2 years.'' Raytheon is one of the big defense contractors. As Deputy Secretary, Raytheon issues will surely come

across your desk. If you have to recuse yourself from important decisions, you would limit your effectiveness as Deputy Secretary of Defense. How will you avoid this problem for 2 years?

Answer: I have received a waiver of the ''Entering Government'' restrictions under the procedures of the Executive Order implementing the ethics pledge requirements. The waiver, however, does not affect my obligations under current ethics laws and regulations. Until I have divested my Raytheon stock, which will be within 90 days of appointment, I will take no action on any particular matter that has a direct and predictable effect on the financial interests of Raytheon. Thereafter, for a period of one year after my resignation from Raytheon, I also will not participate personally and substantially in any particular matter involving Raytheon, unless I am first authorized to do so under 5 C.F.R. § 1A2635.502(d). In addition, for the one year period covered by Section 502, I have agreed not to seek a written authorization for the handful of issues on which I personally lobbied over the past two years. If confirmed, I pledge to abide by the foregoing provisions. I would add that I have not been exempted from the other Executive Order pledge requirements, including the ones that restrict appointees leaving government from communicating with their former executive agency for two years and bar them from lobbying covered executive branch officials for the remainder of the Administration.

Mr. GRASSLEY. Mr. Lynn continues to defend straight pay, a policy that Secretary Cohen said didn't exist back then. He said it was necessary ''to ensure that contractors were paid on time.''

Well, can't you pay contractors on time by having invoices and all the proper documentation to write even a $1 check? That is the streamlining effect that former Secretary Cohen argued for in his failed June 2, 1998 DRI legislative initiative.

I exchanged followup Q and A on these matters with Mr. Lynn on February 5 and 6 this year, and I will include those letters in the record as well. As Chief Financial Officer at one of our biggest departments, Mr. Lynn signed the memo authorizing straight pay policy. It was his policy.

I ask unanimous consent that the followup documents be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC February 5, 2009.

Mr. WILLIAM J. LYNN,
Senior Vice President, Raytheon Company, Arlington, VA

DEAR MR. LYNN: I am writing to follow-up on our recent exchange of correspondence regarding your record as the Chief Financial Officer (CFO) at the Department of Defense (DOD).

I respectfully request that you respond to the following questions in writing:

(1) On February 2, 1998, when you were CFO, Secretary of Defense Cohen asked the Senate for legal authority to pay bills without receipts with no dollar limit. This proposal was embodied in Section 401 of the Defense Reform Initiative (DRI). What was your position on this legislative proposal?

(2) In a letter to you dated January 19, 1999, I expressed grave concern about a DOD payment policy known as ''Straight Pay.'' This policy was authorized by you in documents that bear your signature. The purpose of my letter was to verify the facts pertaining to this policy that was brought to my attention by a Defense Finance and Accounting Service (DFAS) employee, Your response to this letter is dated March 9, 1999. In your letter, you report that ''Straight Pay'' does not exist. This is what you said: ''Straight Pay'' is not used at our Columbus Center . . . 'Straight Pay,' as it was reported to you, does not exist at the Columbus Center.'' Secretary Cohen made essentially the same statement in response to questions I raised at a Budget Committee hearing on March 2, 1999. He stated: ''there is no authorized procedure called straight pay.'' In your February 3, 2009 letter, by comparison, you provided a description of the ''Straight Pay'' policy. Did ''Straight Pay'' exist at the Columbus Center in 1998–99?

(3) How do you explain a DFAS Memo dated March 8, 1999 that contains the following instructions: ''Due to concerns over the use of the term 'Straight Pay' and its connotation, we must delete all references, to 'straight pay' from the policy and clarify that policy does not create an environment for fraudulent payments. Terms such as unmatched disbursements or direct disbursements were substituted.'' Did you instruct DFAS to get rid of the term ''Straight Pay.''

(4) Do you believe unmatched disbursements were a satisfactory outcome?

(5) One day after DFAS gave ''Straight Pay'' policy a new name, you issued orders to keep the policy alive. Your memo of March 9, 1999 actually re-authorized the policy for another 90 days beyond the March 22, 1999 expiration date. Is that true?

(6) When you were CFO, were you knowledgeable or aware of the arbitrary allocation scheme used by DFAS at the Columbus Center for making progress payments? That policy also had an informal name. It was called ''bucket billing.'' Both the GAO. and IG had conducted numerous audits and reviews of these procedures and declared them to be illegal. If you knew about these bill paying practices, what specific steps did you take to correct the problem?

(7) I note that the waiver granted to you in connection with President Obama's new ethics rules was co-signed by OMB Director Orszag and Mr. Gregory B. Craig, Counsel to the President. I understand that you have past associations with Mr. Craig. Please characterize your relationship with Mr. Craig?

(8) According to the Project on Government Oversight (POGO), Raytheon is ''ranked #4 in a top 50 corrupt list'' of government contractors. POGO reports numerous instances of double billing on aircraft maintenance contracts, contractor kickbacks, defective pricing, False Claims Act violations, substitution/nonconforming products, violations of SEC rules, etc. involving Raytheon. As the top Raytheon lobbyist, to what extent did you know about or become involved with any of these issues? Did you ever discuss any of these issues with DOD officials or Members of Congress or congressional staff?

(9) In view of the fact that your nomination appears to be inconsistent with President Obama's rules pertaining to the ''Revolving Door Ban,'' do you belief you have compromised any of your personal and/or professional values by accepting it?

Your continuing cooperation in this matter would be greatly appreciated.

Sincerely,

CHARLES E. GRASSLEY,
Ranking Member.

FEBRUARY 5, 2009.

Hon. CHARLES E. GRASSLEY,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: I am writing to respond to your letter of February 5, 2009. Following my February 3, 2009 letter, you asked nine additional questions.

(1) Although I took office as Under Secretary just before the Defense Reform Initiative was submitted to Congress, I did not participate in the development of Section 401. I do not recall having taken a position on it. At this time, I would not support a proposal that with no dollar limit would allow the Defense Department to pay bills without a receipt.

(2) In your letter of January 19, 1999, you equated an obligation to a contract, implying that ''Straight Pay'' allowed payment without a valid contract. As I explained in both my recent February 3, 2009 letter and the earlier March 9, 1999 letter, ''Straight Pay'' required that the Department be in possession of a valid contract as well as a valid invoice and a valid receiving report prior to payment being authorized. If this three way match existed, the policy allowed payment without a matching obligation in the accounting records, with the proviso that the Military Services update the accounting records to ensure that a valid payment had been made. In short, ''Straight Pay'' did exist at the Columbus Center in 1998–99, but the process was different than the one you described in your January 19, 1999 letter.

(3) I am not aware of the March 8, 1999 DFAS memo that you referenced. To my knowledge, I did not sign or authorize it.

(4) Unmatched disbursements are not a satisfactory outcome. They reflect the age and inadequacy of some of our finance and accounting systems. This is one of the primary reasons that I supported the modernization of our finance and accounting infrastructure when I was Under Secretary in the late 1990s and why I will continue to support that modernization should I be confirmed as Deputy Secretary.

(5) As I stated in my February 3, 2009 letter, ''Straight Pay'' was an attempt to strike the right balance between meeting our obligations to pay on time and ensuring the Department only paid vendors for what was actually received under a valid contract. The 90-day extension of that policy on March 9, 1999 was done because the backlog of unpaid invoices remained at an unacceptable level.

(6) With regard to progress payments, I took steps to ensure that payment procedures were tightened. In 1998, I directed that on all new contracts, other than firm fixed price contracts, the practice of prorating payments proportionately to all accounting classification reference numbers be discontinued. Effective August 31, 1998, the Department began distributing progress payments on the basis of the best available estimates of the specific work being performed under the contract. Both the Office of the Inspector General and the Office of the General Counsel of the Department of Defense reviewed and approved the new policy.

(7) I served on the staff of Senator Edward Kennedy in the late 1980s with Gregory B. Craig, who is now Counsel to the President.

(8) While at Raytheon, I did not participate in any of the of the issues that you cite. Nor did I lobby on those issues with either Defense Department officials or any Members or staff in Congress.

(9) I am honored that President Obama nominated me to serve as Deputy Secretary of Defense. If confirmed, I will serve the Department and the nation to the best of my

ability. It is fully consistent with my personal and professional values to return to public service at this time.

Sincerely,

WILLIAM J. LYNN III

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, February 6, 2009.

Mr. WILLIAM J. LYNN,
Senior Vice President,
Raytheon Company, Arlington, VA

DEAR MR. LYNN: I have reviewed your letter of February 5, 2009, in which you attempt to address the questions I raised in a letter to you also dated February 5th.

I am baffled by some of your answers. You have answered questions I did not ask; you have not answered questions I did ask; and some of your answers appear to be incomplete as follows:

First, in question #1, I asked you about your position on Section 401 of Secretary Cohen's Defense Reform Initiative presented to the Senate in February 1998. You responded as follows: ''I did not participate in the development of Section 401. I do not recall having taken a position on it. At this time, I would not support a proposal that with no dollar limit would allow the DOD to pay bills without a receipt.'' In February 1998, you had been CFO for several months. This issue fell directly under your purview. How could you possibly avoid taking a position on an issue the Secretary of Defense was urging the Senate to adopt? As the Chief DOD lobbyist for Raytheon today, you say it was wrong. My question is: As the DOD CFO back in 1998, why didn't you know it was wrong and speak up?

Second, in question #2, I asked: ''Did 'Straight Pay' exist at the Columbus Center in 1998–99?'' You responded this way: ''Straight Pay' did exist at the Columbus Center in 1998–99, but the process was different than the one you described.'' Your response today is a bit different from the one you provided me in 1999. In early March 1999, both you and Secretary Cohen reported to me that ''Straight Pay'' did not exist. Period. This is what Secretary Cohen said in response to my questions at a Budget Committee hearing on March 2, 1999: ''there is no authorized procedure called straight pay.'' And he attributed that statement to you. You are saying it existed but not exactly as I described it. I find these explanations somewhat confusing. Even if I did not describe it exactly right, it still existed. And this is why I raised question #3.

Third, The Defense Finance and Accounting Service (DFAS) employees were providing me with documents that clearly indicated that the ''Straight Pay'' did, in fact, exist.

DFAS employees even provided me with an elaborate set of rules on how this policy was to be implemented. Then I received a high-level DFAS memo that appeared to constitute a direct order to suppress the policy, bury it, if necessary, or re-name it. This memo, dated March 8, 1999, contained the following instructions: ''Due to concerns over the use of the term 'Straight Pay' and its connotation, we must delete all references to 'straight pay' from the policy and clarify that policy does not create an environment for fraudulent payments. Terms such as unmatched disbursements or direct disbursements were substituted.'' As you know, unmatched disbursements—like ''Straight Pay''—leave the door wide open to fraud and theft. But that is a separate issue. In question #3, I asked: ''Did you instruct DFAS to get rid of the term ''Straight Pay?'' You did not answer this question. You responded by saying you are not aware of that memo and did not sign it or authorize it. I will re-phrase the question, because some high official was probably creating pressure for this change. While CFO, did you ever issue any instructions to DFAS or anyone else regarding use of the term or words ''Straight Pay''?

Fourth, in question #5, I asked you if you approved and signed documents authorizing ''Straight Pay.'' In your response, you tell me why the policy was necessary but do not accept direct responsibility for approving the policy. While CFO, did you ever approve and sign documents authorizing ''Straight Pay''?

Fifth, in question #6, I asked you about your knowledge of the arbitrary allocation scheme—also known as ''Bucket Billing''—used at the Columbus Center for making progress payments on contracts. At the time, both the GAO and DOD IG had declared that this policy was illegal. As you may remember, I addressed this matter in great detail with your predecessor, Mr. John Hamre. You now report that a new policy was put in place on August 31, 1998. You also reported that the IG reviewed and approved that policy. Having a new policy is an important first step, but my question is this: Is the new policy working as advertised? In 1999, did you follow-up and check to see if payments were being posted to the correct appropriation accounts?

Sixth, in question #7, I asked you about your association with Mr. Gregory B. Craig, who was directly involved in the review and approval of the waiver you were granted in connection with President Obama's new ethics rules. I asked this question: ''Please characterize your relationship with Mr, Craig?'' You answered: ''I served with him on the staff of Senator Kennedy in the late 1980s.'' Again, please characterize your relationship with Mr. Craig? What discussions took place between you and Mr. Craig regarding this matter?

Seventh, I will re-phrase question #9 as follows: Do you believe that your nomination is fully consistent with the spirit and intent of the ''Revolving Door Ban'' in paragraphs 2 & 3 of Section 1 of the new rules?

I very much appreciate your patience and cooperation with this matter.

Sincerely

CHARLES GRASSLEY,
Ranking Member.

FEBRUARY 9, 2009.

Hon. CHARLES E. GRASSLEY,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: I am writing in response to your letter of February 6, 2009. You asked some additional follow up questions to your letters of February 3, 2009 and February 5, 2009.

(1) You asked about my position on Section 401 of the Defense Reform Initiative in 1998. As I indicated, the development of Section 401 took place before I took office as Under Secretary in late 1997, so I was not engaged in the process that led to the inclusion of Section 401 in the Defense Reform Initiative. Further, Section 401 was dropped before I ever had an opportunity to review or take a position on the provision.

(2) You asked for further clarification on the issue of ''Straight Pay'' at the Defense Finance and Accounting Service (DFAS) Columbus Center. To my knowledge, ''Straight Pay'' was an informal term used to describe a payment process in the Air Force network. Your March 1999 letter and your Budget Committee hearing question to Secretary Cohen used the term ''Straight Pay'' differently, that is to describe the pre-validation process used by the Mechanization of Contract Administration System (MOCAS) at the Columbus Center. The purpose of my response to your letter and Secretary Cohen's response to your hearing question in 1999 was not to argue over the term ''Straight Pay'', but rather to explain the pre-validation process used at Columbus accurately and fully. Specifically, we both described how the three-way match procedures worked. They required that no payments could be made without a valid invoice, a valid contract, and a valid receiving report. If this three-way match existed, the policy allowed payment without a matching obligation in the accounting records, with the proviso that the Military Services update the accounting records to ensure that a valid payment had been made.

(3) As I wrote previously, I was not aware of the March 8, 1999 DFAS memo that DFAS employees provided to you. Nor do I recall ever issuing instructions to DFAS or anyone else regarding the use of the term ''Straight Pay''.

(4) You asked about documents that I signed authorizing ''Straight Pay''. I am not aware of any official documents that I signed that included the term ''Straight Pay''. I did, however, approve and sign documents that authorized the three-way match process described in my answer in paragraph 2 above. These included the March 9, 1999 memo, to which you referred in your February 5, 2009 letter. This memo re-authorized a temporary increase in the threshold on new contracts paid by the MOCAS system due to the backlog of payments. The original authority for the temporary increase in the threshold was a December 1998 memo, which I also approved and signed.

(5) With regard to the new policy that I directed on progress payments in 1998, I did follow up and found DFAS was following the payment distribution instructions required by that policy. It is my understanding that the policy remains in practice today with some enhancements to further ensure payment distribution is made in accordance with the contract.

(6) As I stated in my previous letter, Mr. Gregory Craig and I were co-workers on Senator Kennedy's staff in the late 1980s. Over the ensuing decades, we have had only very few contacts. Additionally, my contacts with the review and approval of my waiver were not with Mr. Craig, but with his colleagues in the White House Counsel's office, who conducted the extensive analysis supporting the waiver. Ultimately, this analysis was then reported and approved by Mr. Craig.

(7) I believe that my nomination is consistent with the spirit and intent of President Obama's Executive Order. I, like every nominee, am bound by the Order's provisions. However, because of my previous work experience, I was granted a waiver to a portion of Section 1, which is allowed under Section 3 of the Order. The reasons for receiving the waiver were described in a February 3, 2009 letter to you from Mr. Peter Orszag, Director of OMB and Mr. Craig, White House Counsel. Notwithstanding, I remain bound by the Order's revolving door exit provisions as well as all other provisions contained in the Order.

Thank you for the opportunity to respond to your questions.

Sincerely,

WILLIAM J. LYNN III.

Mr. GRASSLEY. I believe this policy developed under Mr. Lynn's leadership was dangerous, misguided, and irresponsible. It demonstrated a lack of sound business judgment. It may have been inconsistent with various provisions of law. Because don't the taxpayers expect you write a check, you have a reason for writing it, you have an invoice or something that says you

owe X number of dollars? Straight pay left the taxpayers' hard-earned money vulnerable to fraud and theft, and we have had that.

I was not alone in this assessment. At my subcommittee hearing on September 28, 1998, the Government Accountability Office witness said essentially the same thing. DFAS payment policies in Mr. Lynn's watch left the door wide open to fraud.

For all these reasons, I have to say Mr. Lynn, as Chief Financial Officer, did not do everything humanly possible to protect the taxpayers' interests. When he pushed the straight pay policy and went silent on pay-and-chase, he did not act in the public interest.

As Chief Financial Officer, Mr. Lynn was also supposed to do his part to develop and integrate a finance and accounting system that would allow the Department of Defense to produce a financial statement that could earn a clean audit opinion. I know this is a massive and complex undertaking, but Mr. Lynn could have gotten the ball rolling in the right direction, even if he didn't get it under control.

I can guarantee one thing: The principle of straight pay was not conducive to the creation of an integrated accounting system. One of the first steps in that process is to link obligations to disbursements. Straight pay truncated that link and undermined integration.

Although he claimed to have launched several important reform initiatives, there appears to be little or no measurable progress toward the goal of integration on his watch. In fact, his payment policies probably took us in the wrong and opposite direction and had an opposite effect. The Department's books of account were a mess when Mr. Lynn became Chief Financial Officer, they were a mess when he left, and I have a feeling they remain a mess today, with no fix in sight.

Congress passed the Chief Financial Officers Act in 1990 in an attempt to fix the problems in accounting of Government finances in every department. Eighteen years after this legislation, the Department of Finance, as a whole, has yet to earn a clean audit.

Mr. Lynn should not be the only person held accountable for poor accounting at the Department of Defense. He was one of many individuals in a long line of Chief Financial Officers and Comptrollers who, for whatever reason, were unsuccessful in solving the financial misstep at the Defense Department. Mr. Hamre, his predecessor, used to say: ''Fixing this problem is like changing a tire on a car going at 100 miles per hour.''

I have shared some of my sentiments on Mr. Lynn's performance as Chief Financial Officer. I hope these insights are helpful to my colleagues before they vote yes or no on this nomination. If confirmed, we hope he will do everything possible to protect our national security. We hope he will protect the taxpayers' hard-earned money, and we hope he will make sure the taxpayers' money is wisely spent and, most importantly, spent according to law. We hope he will usher in a new era of financial accountability at the Department of Defense. At this point, we simply don't know what Mr. Lynn will do. I don't own that crystal ball that would be necessary to make that determination. It is all about the future, and that is relatively unknown. But we do know something about what he did in the past as the Department of Defense Chief Financial Officer.

As Chief Financial Officer, he advocated very questionable accounting practices that obviously were not in the public interest. Writing a check in any department without knowing what that check is paying for is not in the public's interest. It is not a wise expenditure of public money. We need accounting systems that account for every dollar going out, having a purpose of a service or a product that it bought. I urge my colleagues then to weigh those considerations in reaching a decision on how to vote on the Lynn nomination.

Lastly, I wish to take a moment to thank the Senate Armed Services Committee leadership, both Republican and Democratic, and their staff for their patience on this issue. I appreciate the time Chairman LEVIN has given me to discuss this nomination. I lay everything I have said before the Senate for consideration.

I have already sought permission to have some of these documents printed in the RECORD, so I don't think I have to do that.

I yield the floor.

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

Let me, first, thank Senator GRASSLEY for his dedication to trying to change the climate around here. He has been on the forefront. I happen to disagree with him on the conclusion he has reached—or apparently reached—relative to Mr. Lynn for reasons I will go into. Nonetheless, he has been an advocate of reform and he continues to do that. I will explain why I think, in this instance, his concerns do not fit the situation.

In the first instance, when he suggested the President is changing the rules as we go along by providing a waiver to Mr. Lynn as part of the new Executive order, that is part of the Executive order.

Let's not change the rules during the game. That is part of the rule President Obama has adopted in the new Executive order. It has some very stringent requirements. Part of them are waived by the President's Office of Management and Budget—in this case, for reasons they gave. Part of the new rule is not waived, the critical postemployment prohibition that applies to Mr. Lynn. I think that for the reasons given by President Obama's Budget Director, the waiver is a legitimate one, central in this case for the reasons given.

By the way, when we talk about waivers, this is not at all unique. Mr. Lynn's situation is not in the least bit unique. Waivers have been given and provided in previous cases because senior officers have had experience in the private sector. Secretary Gates was subject to the same rule, subject to the same waiver requirement. Secretary Rumsfeld was subject to the same waiver and the same waiver requirement, as were Deputy Secretary England and Secretary Wolfowitz. This has been a common practice. I don't think anybody in those cases, or in any other case we know about, where either a waiver has been required or the waiver provision has been applicable—we know of no situation where there was a conflict of interest.

What President Obama has done is tighten the requirement. He also provided for the possibility of a waiver for part or all of the new requirement. Part of the new requirement has been waived by the new President, but to suggest that he simply has waived his new requirement is not accurate because part of it was not waived. The critical part not waived is that the new officeholder, if confirmed—Deputy Secretary Lynn—will be subject to the prohibition that he may not lobby anybody in the Government if he leaves before the administration finishes, nor may he lobby anybody in the Department of Defense for a year after he leaves. These are very strict, new requirements that are not waived in the case of Secretary Lynn. What has been waived by the administration is the other part of the Executive order. That is No. 1.

Senator GRASSLEY has gone into a lot of technical arguments relative to Mr. Lynn when he previously served. I want to deal with that the best we can.

These events took place 7 to 10 years ago, but they don't involve ethics issues at all. They involve what Mr. Lynn said in letters relative to certain accounting practices at the Department of Defense at that time. I have reviewed these answers, and the questions were very appropriate questions asked by Senator GRASSLEY. I commend him for asking the questions.

There were 4 separate letters to Mr. Lynn, with 30 detailed questions about practices for validating vendor payments in certain parts of the Department of Defense more than 10 years ago. Mr. Lynn has responded to every one of the letters Senator GRASSLEY very appropriately wrote, and to each of his questions. It is my view, after reading all of the questions and the answers, that while the vendor payments that were described by Senator GRASSLEY are real, No. 1, it is not fair to attribute those problems to Mr. Lynn. Secondly, the problems as described by Mr. Lynn and the responses he gave were accurate.

First, the description was of the pay-and-chase—the way of paying vendors. That system was illegal. You cannot pay a vendor without checking that invoice against the contract or against the receipt of the goods. That was the

problem with the pay-and-chase system. There was a failure to check the invoice that came in, the document that the goods were received and that they were proper under the contract. That system ended. It had to end; it was illegal. A new system was put into place where the vendor's bill was checked against the receipt of the goods and against the contract. That is a very different deal. It is a legal system. Unlike so-called pay-and-chase, which preceded it, which was illegal, what Senator GRASSLEY and others have described as a straight pay system was legal. The problem is that it was a confusing name because it implied that the previous system of not checking an invoice against the receipt of the goods or the contract continued, when it did not continue. It was dramatically changed from something that was illegal to something that was legal.

For instance, Senator GRASSLEY, when he wrote Mr. Lynn back on January 29, 2009, said:

> Straight pay allowed the technician to ignore the warning signals and make payments up to half a million dollars without checking documentation.

That is not accurate. They had to check documentation. There were some things they could not check because the systems are deficient at the Department of Defense, including what is the original source of the money in the Defense Department's budget. Does it come from R&D or does it come from acquisition? That part, they still cannot check. Those systems have been deficient, and continue to be, but with the help of this body and hopefully real energy in the DOD, that can be corrected. We all need that.

Senator GRASSLEY has been in the forefront of trying to get these kinds of controls in place. I commend him for that. But it is not accurate to say that straight pay, so-called, which was the followup system, allowed these payments without checking documentation. That is what Mr. Lynn disagrees with. When you look at his answers, that is the disagreement between Mr. Lynn's answers and what Senator GRASSLEY describes as being accurate.

Part of the problem here, by the way, that Senator GRASSLEY had is not with Mr. Lynn, it is with Secretary Cohen. Repeatedly and accurately, Senator GRASSLEY points to the action of then-Secretary of Defense Cohen, saying he didn't do this, and Mr. Lynn didn't change it, or Secretary Cohen didn't do something, and Mr. Lynn did not disagree. The problem was with the Secretary of Defense, which is outlined by Senator GRASSLEY, to the extent that it exists.

It is hard for me to believe Secretary Cohen would not be eligible to be Secretary of Defense again or would not be confirmed unanimously by this body. Yet the mistakes attributed to Mr. Lynn are also attributed to then-Secretary Cohen, for whom Mr. Lynn worked. But does anyone seriously suggest that if Secretary Cohen were reappointed as Secretary of Defense, we would not confirm Bill Cohen by a vote of 100 to 0?

So, Mr. President, without getting into a lot more detail—and these are incredibly complicated and detailed issues—let me summarize by saying that the difference here has been described—there is a difference over the description of a system of payment and the way in which Mr. Lynn describes it. When you look at his complete answers, it seems to me, there is a fair description of what the problem was.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise to express my support for William Lynn to be confirmed as Deputy Secretary of Defense. Bill has a combination of experience and sound judgment. He worked here on Capitol Hill as a significant policy aide to Senator KENNEDY on the Armed Services Committee. He has been the comptroller of the Department of Defense. He has detailed and specific knowledge of the vast programs that will be handed over to the DOD. He has also worked in industry. Frankly, the job of Deputy Secretary of Defense is a place in which all these roads come together—the relationship with Capitol Hill, the relationship with industry, and a detailed understanding and knowledge of the way the Pentagon really works from the inside, not from the outside.

He is uniquely situated to take on these daunting challenges that face us, at a time when we are engaged in two conflicts—Afghanistan and Iraq—and a continuing war against extremists across the globe and at a time when our budget is going to be challenged because of a declining economy in the United States and across the globe. The difficult judgments that have to be made require the expertise and experience Bill Lynn can bring and few can match.

One other thing that I think is particularly compelling about this nomination is the enthusiastic support of it by the Secretary of Defense, Bob Gates. There is no one in Government whom I admire more for their patriotism, their sacrifice to the Nation, and their service. The Secretary of Defense has made it very clear that he believes Bill Lynn is someone whom he not only can work with, but he will aid him immensely in his extraordinary challenges to face the threats I have already illustrated. For me, Bob Gates's testimony and endorsement is compelling evidence that this Senate should confirm Bill Lynn immediately this afternoon.

As I mentioned before, Bill worked in the Department of Defense. He has knowledge of the whole range of programs. That is absolutely critical because he will have to make judgments about these programs to advise the Secretary of Defense.

For his work at the Department of Defense—which has been talked about this afternoon, but this wasn't mentioned—he received the Joint Distinguished Civilian Service Award from the Chairman of the Joint Chiefs of Staff. Again, the military understands not only the important duty he is performing but also, in their own conduct and affairs, understands the values of integrity, character, and commitment to the national interest. He has won awards from the Army, Navy, and Air Force. He also received the 2000 Distinguished Federal Leadership Award from the Association of Government Accountants for his efforts to improve defense accounting practices.

He also gained valuable experience within private industry. Again, Bill is not unique in having an industry background. In fact, the current Deputy Secretary of Defense, Gordon England, came from an industry background. My observation of Secretary England is that his performance has been outstanding, aided by the insight he has had into the multibillion-dollar contracts that industry has with the Department of Defense, insight he has into the decisionmaking in corporate America, insight he has into the way business is done in the defense community. That has aided him, not disabled him, in doing an excellent job. Once again, Bill Lynn comes from a similar background. As Chairman LEVIN pointed out, the Secretary of the Navy, who I also believe has done an outstanding job, also came from a background in the defense industry.

This goes also to the other issue raised about the waiver. Essentially, Bill Lynn stands in the same shoes, I think, as Gordon England and others—ladies and gentlemen who worked in private industry but recognized when they took the oath to serve the people in this country, they had only one boss—the people of the United States. They are committed to that duty.

Also, I think, frankly, the rules have been followed scrupulously by his predecessors and will be followed by Bill Lynn regarding conflicts with his previous employer. I believe he is going to err on the side of caution when it comes to programs that may be under the purview of his previous employer, or anyone else, because having gotten to know Bill, I understand he is not only a man of intelligence but a man of character.

We have someone uniquely situated to begin to aid the Secretary of Defense in the important challenges before us: How do we create a strategy of redeploying forces successfully out of Iraq? How do we increase our presence in Afghanistan and help military and civilian agencies to deal with that troubling situation? How do we deal with issues of defense modernization? How do we prepare for longer term threats? How do we continue to be active across the globe to, we hope, preempt terrorist activities, whether it be in the Near East, Far East, or anyplace on this globe?

Again, Bill Lynn is superbly qualified to do this. He is a graduate of Dartmouth with a law degree from Cornell Law School, and a master's in Public Affairs from the Woodrow Wilson School at Princeton—again, superb academic preparation and superb life preparation. He is someone who has, again, the character and the insights to render remarkable service to the Department of Defense.

I hope my colleagues will join with me in supporting this nomination, rounding out a team of excellent patriots and professionals in the Department of Defense. I must commend President Obama. He made a very sound, I won't say unusual, but unexpected announcement early on by offering the position of Secretary of Defense to Bob Gates. Bob served with distinction under President Bush. President Obama recognized, first, the quality of this Secretary, Secretary Gates, and also the need for continuity in the operations of the Department of Defense. That was a strong not only signal of continuity but endorsement of the work and effort of thousands and thousands of uniformed military personnel and civilian employees in the Department of Defense. That choice was amplified in his selection of Bill Lynn. Again, the endorsement of Secretary Gates speaks volumes about the team President Obama has put together.

I hope at the conclusion of this debate, we could send a very strong vote of confirmation and confidence in the team that President Obama has assembled—Secretary Gates, hopefully Deputy Secretary Lynn, and the other members—because the tasks before them are, indeed, daunting and because their success will be our success.

Mr. GRASSLEY. Mr. President, I apologize to Chairman LEVIN. I had to leave the floor to attend a conference meeting on the stimulus bill before he finished his remarks.

I would like to rebut his remarks regarding Mr. Bill Lynn.

In regards to the Executive order on ethics, I agree President Obama is attempting to set high standards for executive branch appointees; however, giving special waivers to nominees such as Mr. Lynn water down the spirit and authority of his own Executive order. I would ask President Obama: How many more waivers will you grant in the next 4 years?

I say to Chairman LEVIN, you seemed to blame former Defense Secretary Cohen for the financial troubles at DOD, not Mr. Lynn. I could not disagree with you more on this issue. Chief Financial Officer Lynn was chiefly responsible for the policies and regulations governing accounting practices. His straight-pay policy went against all commonsense accounting practices. DFAS technicians should not have paid bills like they did without first confirming that the proper obligations were in the books of account.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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, I ask unanimous consent that I be recognized for 10 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. I thank the Chair.

(The remarks of Mr. INHOFE pertaining to the introduction of S. 412 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. INHOFE. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ENSIGN. Mr. President, I ask to speak as if in morning business and have the time counted against our side.

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

(The remarks of Mr. ENSIGN are printed to today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I thank my friend from Nevada. I wish to spend just a few minutes. I am not going to talk for a long period of time, and I will yield back my time.

I am extremely concerned with the nomination of Mr. Lynn. It has nothing to do with Mr. Lynn. Some can be critical of his time as Comptroller. Some can be critical of some of the lack of forthrightness in some of the answers about the accounting and controlling and auditing systems in the Pentagon, and I think that is rightly so. We had several hearings on IT improvements and waste in the contracting of IT through the Pentagon. We had several hearings in the last two Congresses about the waste in contracting. Mr. Lynn dealt with a large amount of that.

Let that be as it may. The reason I stand to speak against his nomination is this is a nomination that is going to be the person who runs the day-to-day operation of the Pentagon. If you look at management experience, what there has been in running an organization that has 2.9 million employees—it is the largest component, even including mandatory programs, that we have.

It also is the area where we have some of the greatest amount of waste. We had it during his tenure as Comptroller. We had it during the Bush administration years. Why would we put someone into that position who has not performed in a stellar fashion when given the authority to fix a lot of those problems before? Why would we put someone in charge who is going to be handicapped? There is no question, given the waiver he has received, he will be absolutely handicapped in all the contracting that goes before the Pentagon.

Let me explain. His former company is one of the five largest defense contractors in the country. It is not just the areas he has lobbied in the past few years, such as the Aegis Ballistic Missile, the DDG–1000 destroyer, the Excalibur precision-guided munitions, the Joint Land Attack Cruise Missile Defense Netted Sensor System and the Multiple Kill Vehicle System, which comes to $41 billion, 10 percent of the Pentagon's budget, but every other contract that has Raytheon as a subcontractor from which he is going to have to recuse himself.

What he is going to be limited to is personnel matters and accounting matters. He will not be able to make those decisions without first getting a waiver to make them and then, if you are granting a waiver to make the exception and make a decision, here is what is going to happen.

Let me give the history of the tanker program in the United States. We, first, had a contract let to Boeing, which was complicated by some very bad acting on the part of Boeing and some Defense Department officials, and it got thrown out.

We last had a contract for the tanker program that was awarded to EADS. There was a protest filed on it. It got thrown out.

Everything he is not involved with, Raytheon can file a protest that they were excluded because the management chain was not the same. We have created the basis for a new protest on everything Raytheon will not win in the future. If Raytheon does win a contract, we have created a protest for everyone who wasn't Raytheon to protest because there is a conflict of interest.

Ask yourself, in this dire economic time we are in, with the largest agency we have, why we would put somebody in that position who is going to be—for at least 1 year and probably for 2, if we wanted to ethically look at it—totally out of the realm of the most important, outside our military men and women, most important aspect of the Pentagon, which is purchasing, contracting defense weapons systems.

We are setting a man in a position. It is no reflection on him. He is very knowledgeable. He has been a good public servant. We are putting him in a position to fail. We have guaranteed that contracting will not go smoothly at the Pentagon because we have created two new bases for protests over contracts. We can go through all the contracting, and it is going to be raised—and rightly so. There is going to be a legitimate protest on both sides of these issues that is going to delay the ability of the American people to

contract for things we should be contracting for. More importantly, it is going to significantly raise the cost.

The third point I would make is, because he is going to have to exclude himself from the vast majority of decisions in contracting and purchasing, the very position he is meant to fill, to run the day-to-day operations, means Secretary Gates is going to have to run the operations. If he has to run the operations himself, why does he need a Deputy Secretary of Defense?

President Obama, I think rightly, has asked Secretary Gates to stay on. I think the continuity with that was great. I am sorry he didn't ask others to stay on until we got past this period of time. In spite of the good will of Mr. Lynn, a man of character, a man of integrity, we have set him up to fail.

I have no doubt he is going to be placed in that position today when we vote. But we ought to think. The biggest problem we have with our body, in terms of what we do, is we do not think long run. We think short term. What we have done is totally handicapped him, but we are also going to handicap our military.

This is not a time we should be doing that. We should be creating a streamlined procurement process that rebuilds the procurement offices, which need to be rebuilt—that has no question about the authority of the Deputy Secretary of Defense to make solid, fair, clear, and decisive actions and decisions. What we are going to do is ensure that does not happen.

I thought it was interesting that Senator MCCAIN's main point was he did not have the managerial experience to do this. Senator MCCAIN is going to vote for him because he has such high regard for Secretary Gates. But think about that statement. He does not have the managerial experience to run a 2.9 million individual organization, and he is handicapped. We are going to handicap him so he meets the ethical outlines President Obama so rightly has put in place.

I think it is a bad decision. I think it is a wrong decision. Once again, the consequences for that will be inefficiency, ineffectiveness, and a greater cost for this country. Anytime we have a greater cost on anything now, it goes directly to our kids and our grandkids.

I hope my associates in the Senate will give a rethought to whether we ought to handicap this man this way. Surely somebody can fill the bill and let Mr. Lynn wait a year and then come in and do what he wants to do and what President Obama wants him to do.

Again, we will make a serious mistake if we approve him, not only for us, not only for our kids but for him as he attempts to run the largest organization in the world.

Mr. HATCH. Mr. President, today I rise in support of the confirmation of William J. Lynn to be the next Deputy Secretary of Defense.

I recently had the opportunity to meet with Mr. Lynn and discuss many of the important defense challenges that face our Nation. I came away from that meeting duly impressed by his dedication to seek new and innovative solutions to many of these issues.

Throughout his career, he has demonstrated a singular devotion to our national defense. In the early 1980s he was the executive director of the Defense Organization Project at the Center for Strategic and International Studies. This organization was a major catalyst for the Goldwater-Nichols Act of 1986 which transformed and modernized the Department of Defense. Those reforms are still the foundation from which the Department operates today.

As a senior fellow at the National Defense University, Mr. Lynn continued his work collecting ideas and crafting solutions to solve a myriad of national defense issues. Then, prior to entering the Department of Defense, he worked for 6 years as the military legislative assistant to my good friend and colleague, Senator KENNEDY, a senior member of the Senate Armed Services Committee.

In 1993, Mr. Lynn joined the Defense Department and served 4 years as the director of program analysis and evaluation in the Office of the Secretary of Defense. There he oversaw the Department's ever-evolving strategic planning progress. He was then appointed as the Under Secretary of Defense Comptroller where he served 4 years providing candid advice to the Secretary of Defense on all budgetary and fiscal matters.

His most recent endeavor was as senior vice president at Raytheon Company where he focused his energy and expertise on strategic planning. In this role, he ensured that a major American corporation developed and produced technologies that met the conflicts of today and the dangers of tomorrow.

During these challenging times, it is essential we have leaders in our Defense Department with strength of purpose and a vision for innovation. William Lynn is such a leader. I am proud to pledge my support and look forward to working with him to create smart and effective solutions that support the brave men and women who defend our Nation.

Mr. FEINGOLD. Mr. President, consistent with my practice of deferring to Presidents on executive branch nominations, I will vote to confirm William Lynn to be Deputy Secretary of Defense. I do have some concerns, however, about Mr. Lynn's longtime service as a lobbyist for a major defense contractor. I hope that, if confirmed, Mr. Lynn will take seriously the need for serious reforms to address the Department's troubling record of financial mismanagement.

Mr. LEVIN. Mr. President, I ask unanimous consent that the vote on the confirmation of the nomination of William J. Lynn occur at 5 p.m. today, with the other provisions of the previous order remaining in effect.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. 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, I am pleased today to support the confirmation of Mr. William J. Lynn, III, for the important position of Deputy Secretary of Defense. He will be the chief deputy to the Secretary of Defense, the largest Department of Government, with great responsibilities for weapons systems and to our men and women who serve in harm's way.

If confirmed, Mr. Lynn would be the thirtieth deputy secretary. I firmly believe that he is uniquely qualified for the position and would serve well in that post. He served as Under Secretary of Defense-Comptroller during President Clinton's administration from 1997 to 2001. He was widely commended for providing strong managerial emphasis on improving the Department's financial management.

In addition to his service as comptroller, he has served as Director for Program Analysis and Evaluation and as Assistant Secretary of Defense for the Budget. He has broad experience with many of the core issues within the Department of Defense.

My meeting with him was positive and I have heard people comment on his strong character. Many of the issues that come before the Department of Defense are contentious. Rather than basing decisions on merit, people often try to infect those decisions with politics. I believe he will stand firm to ensure that our men and women in uniform get the best equipment and training for the best value. This type of judgement is a critical attribute for a deputy. If the deputy is weak; if he compromises or tries to play politics with a defense contractor, or allows a Member of Congress or the executive branch to have undue influence, he can damage the reputation of the Department of Defense. More importantly, such influence can prevent our servicemembers from getting the best equipment at the best value in a timely manner.

He also has 6 years of experience working in the defense industry. He well understands the challenges facing both the defense industry and the Department of Defense.

I am convinced his experience in DOD, coupled with his experience in the defense industry, makes him a nominee we can support for this very important position.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senator from Alabama for his statement. It is a very important and

valuable statement. He is a highly valued member of the Armed Services Committee and comments coming from him will have an impact on this body. I am grateful.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of William J. Lynn, III, of Virginia, to be Deputy Secretary of Defense?

Mr. LEVIN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. LEVIN. I ask for the yeas and nays.

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

The question is, Will the Senate advise and consent to the nomination of William J. Lynn, III, of Virginia, to be Deputy Secretary of Defense?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 62 Ex.]

YEAS—93

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

NAYS—4

Coburn	Grassley
Cornyn	McCaskill

NOT VOTING—2

Gregg	Kennedy

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative action.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate go into a period of morning business, with Senators permitted to speak therein up to 10 minutes.

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

THE STIMULUS

Mr. ENSIGN. Mr. President, I wish to speak briefly. I know my friend from Oklahoma is going to come back and speak, but I wish to make a couple comments. I know there has been a deal reached on the stimulus bill. I wish to make a couple comments about that.

We have not received the bill. There are rumors going around about this, that, and the other. One of the details that seems to be coming out is that the housing portion of the stimulus bill has been cut down dramatically.

I had an alternative to the stimulus bill that focused on housing, to a great degree, and also targeted some tax cuts to families and small businesses to create jobs. The reason we focused a great deal of it on the housing problem was because the housing problem is the cancer that has dragged the rest of the economy down. It has spread throughout the rest of the economy.

As any person in the medical field understands that if you just treat the symptoms and not the underlying cause, the patient gets sicker and sicker. Unfortunately, the President is talking about fixing housing but certainly not at this point.

It is regrettable that we didn't take a big portion of the money that is being spent in this stimulus bill and actually fix housing. It is very disturbing because we are going to spend $800 billion and who knows how much more in order to fix the housing problem. We are running up debt after debt on our children. This is their credit card we are running up, and they are going to have to pay higher taxes into the future.

Once we get the bill, we are going to have to take a close look over the next day or two and go through it. It is very disappointing, it appears, that this stimulus bill is going to do very little, if anything, to fix the housing problem in the United States. My home State of Nevada leads the country in foreclosures. We understand what other States are starting to go through or just recently have been going through, and how severely it affects the economy. It is unfortunate that the stimulus bill that is supposed to fix the economy is not addressing the No. 1 problem we have in the United States.

LAS VEGAS TRAVEL

Mr. ENSIGN. Mr. President, it seems as though reason and common sense are once again being tossed aside. I am referring to the recent remarks by President Obama when he singled out one of the most premiere cities in the world, Las Vegas.

When it comes to convenience and affordability, very few, if any, places in the world can compare to Las Vegas. It is home to more than 140,000 hotel rooms, millions of feet of meeting space, and a central geographic location that makes it easy for employees from around the country to come to meet.

It is no wonder so many businesses decide to have their conventions in Las Vegas. It is more than convenience, though. Las Vegas offers a value that is unique. For instance, the average hotel room today in Las Vegas is $119 a night. That is why I find it disturbing that Las Vegas is being singled out.

It is more than that. Take Goldman Sachs as one example. First, it goes without saying that all companies that are receiving TARP funds must be responsible and not waste precious taxpayer dollars. Because of recent criticism, Goldman Sachs announced that it was moving a 3-day conference from Las Vegas to San Francisco. To do this though, they had to pay a $600,000 cancellation fee, re-route flights, and rebook the same trip in another city, which is even more expensive than Las Vegas.

I ask, is that common sense? Let me repeat this. They had to pay more than a half million dollars in cancellation fees, re-route flights, and re-book the same trip in another, more expensive city. For what? So that Goldman can promote a false sense that it was spending the taxpayers' money more wisely. This is ridiculous. This is what the American people are sick of.

Is San Francisco a more affordable city than Las Vegas? Actually, it is much more expensive. I will shoot this straight. What Goldman Sachs did was purely a phony public relations gimmick, but it is not fooling anyone. The conference they booked in Las Vegas is still taking place. Now it is just much more expensive. This makes no sense at all. So let's cut to the chase.

Wherever these meetings take place, business takes place. Let me give you an example. The Consumer Electronics Show, known as CES: This is an annual business meeting in Las Vegas. CES attendees come to Las Vegas from over 140 countries around the world. They can conduct a year's worth of business

in one location, minimizing travel and saving energy in the process.

During the Consumer Electrons Show, approximately 1.7 million meetings are conducted. Transactions are ordered, commerce is buzzing, and the entrepreneurial spirit of business flourishes. This is economic activity that extends beyond whichever city serves as the host.

It benefits all of us when an opportunity for business growth and productivity takes place. So let's not lose sight of this fact, especially now. Business meetings are an important tool. Let's make sure we do not leave common sense off the agenda.

RETIREMENT OF GUY ROCHA

Mr. REID. Mr. President, I rise today to recognize Guy Rocha, who retired from his post as Nevada State archivist on February 2 exactly 28 years to the day from the time he assumed this position. He began as the youngest State archivist in the Nation. At this time, only the New Hampshire and Maryland State archivists have served longer than him. His exceptional archival and research abilities have earned him an impressive reputation and have made him an invaluable asset to the State of Nevada.

Guy Louis Rocha was born on September 23, 1951. He grew up in Las Vegas and later moved to Reno. His first job with the State was with the Nevada Historical Society in Reno in 1976. He was appointed to be the State archivist in 1981. As the State archivist, Guy was responsible for managing Nevada's historically valuable records dating all the way back to 1851. For his longtime service, he received the Award of Merit for Leadership in History from the American Association for State and Local History.

Above all, Guy is known for his love of truth. He commonly corrects the inaccuracies of reporters and journalists. For 12 years he has written the ''Historical Myth a Month'' column for Sierra Sage, and since 2000 he has written a biweekly column in Reno Gazette-Journal. For his work in debunking popular Nevada myths he has come to be known as the ''myth-buster.''

His research expertise and impartiality have even been called upon to provide historical evidence in settling legal disputes. In addition to his archival duties, he has authored two books and many articles and book reviews and he has served as a rotating host for Reno's National Public Radio show ''High Desert Forum.'' Guy also owns a production company that produces historical documentaries.

Guy Rocha has been rightly called a ''State treasure.'' His contributions as the State archivist, as an historian, and as a writer form an impressive legacy to be honored by current and future generations. All Nevadans have reason to be proud of Guy Rocha, and I know I join them in congratulating him on a well-earned retirement from his duties as Nevada State archivist.

TRIBUTE TO GARY AND JONATHAN HARRIS

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to two heroic soldiers of the U.S. Army from my home Commonwealth of Kentucky, Gary and Jonathan Harris. Father and son, each was awarded the Silver Star for valorous acts in two separate wars.

The Silver Star is the Nation's third-highest award for gallantry in action against an enemy of the United States. Those rare few who receive it do so because of their display of selfless sacrifice and unparalleled courage under fire.

Jonathan Harris, a UH–60 Black Hawk helicopter pilot holding the rank of chief warrant officer 2, came under attack near Gardez, Afghanistan, on July 2, 2008, while attempting to transport soldiers. His Blackhawk was attacked by the enemy with rocket-propelled grenades and anti-aircraft gun systems. Jonathan was able to relocate and land the burning helicopter in a nearby field and safely evacuate the passengers. He then contacted another helicopter to extract his crew.

During the evacuation, while helping escort his wounded fellow soldiers to the new helicopter, Jonathan exposed himself to gunfire while protecting his wounded men and killing at least one attacker. Only after every member of the crew, ground forces, and extraction team were safely onboard did CW2 Jonathan Harris himself get into the helicopter. Because of these heroic deeds, Jonathan Harris is the first aviator to receive the Silver Star since the Vietnam war.

Gary Harris, Jonathan's father, was a staff sergeant serving in Vietnam when he performed the acts of gallantry that would earn him the same medal as his son's. Gary was a squad leader on August 15, 1969, when he and his fellow soldiers came under intense mortar and rocket fire while on combat patrol. He instructed his men to return fire and moved them into a more strategic position.

During the battle, Gary ran across the field of combat to assist medics while ignoring the risk to his own life from the enemy's gunfire. He helped transport the wounded to the medical-evacuation helicopter, saving the lives of many.

SSG Gary Harris received his original Silver Star in the mail, never having the benefit of a formal ceremony—until now. This past November, Gary Harris was honored at a ceremony in Fort Campbell, KY., while Jonathan Harris received his award at the Combined Joint Task Force-101 Headquarters in Bagram Air Base, Afghanistan. They were able to view each other's ceremonies via video teleconference. At his ceremony, Gary Harris also received the Bronze Star Medal for his meritorious service in Vietnam as well as the Silver Star.

As is typical of so many of the brave men and women in uniform I have had the honor to meet over the years, both the father and the son insist that their own actions are not particularly remarkable. Each was quick to point to the other as more worthy of admiration and respect.

''For me, I feel like my grandfathers and my dad, those are the true heroes,'' said Jonathan Harris. ''I would like to think that something was passed on to me.''

Gary, on the other hand, recognized the value of the strong bond his son had with his fellow soldiers. ''These guys really stick together,'' he said. ''We did the same thing, but I don't think we were near as cohesive a group as they are. They are really gung ho about taking care of each other. . . . I know what it is like, every day facing death. It just tears your nerves all to pieces for a while.''

Gary and Jonathan Harris are excellent examples of the brave and dedicated soldiers that make America's Armed Forces the best in the world. And clearly there is a strong sense of duty, honor and love of country that runs in the Harris family and has been passed on from father to son. Their spirit of service represents the very best of what Kentucky has to offer our great Nation.

Mr. President, I ask my colleagues to join me in recognizing SSG Gary Harris and CWO Jonathan Harris for the many sacrifices they have made to our country. Kentuckians everywhere are honored to know and love such brave heroes.

IRAQ

Mr. KYL. Mr. President, I call this body's attention to the recent developments in Iraq. Last month, Iraqis went to the polls to vote in the second provincial election since the hand-over of power in 2004. Elections were conducted peacefully under the watchful eyes of Iraqi security forces, and the results were quickly certified by the United Nations.

This peaceful expression of political will is yet another demonstration of political progress in Iraq. Less than 2 years after some were declaring the war lost and the surge a failure, violence has declined, and the world—most importantly the Arab world—saw Iraqis peacefully voting, their security ensured by an increasingly competent Iraqi army and police.

Not only was the election process successful, the results also merit attention. The Iraqi people voted in favor of secular parties competing with the Iranian-backed religious parties. These results in many ways represent a remarkable change from the 2005 provincial elections that strengthened many extremist and foreign-backed parties opposed to the central government. Sunnis, who largely boycotted the 2005 elections, participated broadly in January's election. Their involvement should enhance national reconciliation and bolster a more moderate and diverse government representative of the Iraqi people.

This progress is reversible. A lot rests on whether the President listens to his generals in the coming weeks and months or whether he bows to liberal interest groups and his campaign rhetoric and initiates a premature retreat. But this is an important sign of what our soldiers and the Iraqi people have worked so hard to achieve. Again, in 2 years since the surge began, and now that it has been over for 6 months, we have seen a constant decrease in violence, increased capabilities by the Iraqi government and military, and now an election where the Iraqi people largely chose moderate parties over extremist ones.

Unfortunately, the media devoted little attention to the success of these peaceful elections, just as they have neglected many of the noble efforts of our men and women in uniform. I recently received an email from a constituent whose brother-in-law is currently serving in the 10th Combat Support Hospital at Ibn Sina Hospital, Baghdad. In the building that used to provide health care to Saddam's family and the Baathist elite, these servicemen and women provide some of the best care in the country to all types of patients, from Iraqi children burned by household kerosene lamps to American soldiers with traumatic injuries. Their hard work and the self-sacrifice of all who serve in Iraq has contributed to the dramatic progress made in Iraq.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

COMMUNITY ORIENTING POLICING SERVICES

Mr. LEAHY. Mr. President, I rise to join Senator MIKULSKI, the chairwoman of the Commerce, Justice, and Science, CJS, Appropriations Subcommittee, and Senator KLOBUCHAR in a colloquy about the importance of the Community Orienting Policing Services, COPS, grant program. I would first like to thank my friend from Maryland for her tireless work and leadership on this bill. I know Senator KLOBUCHAR and I and many others are very thankful that the Appropriations Committee included funding for the COPS Universal Hiring Program in this bill.

It is important now more than ever that we support our State and local law enforcement agencies that are on the front lines in combating crime. With unemployment on the rise and tax revenues plummeting, the conditions are ripe for crime rates to climb again. States and municipalities are being forced to slash their budgets, including critical funding for police, who will need to cut their already depleted ranks even further without help. As crime escalates, there will be fewer officers and resources to protect our families and communities, unless we act now.

Providing timely funding for the COPS Hiring Program will not only help to address vital crime prevention needs but will also have an immediate and positive impact on the economy by allowing State and local police forces to quickly fill vacancies and hire new officers and staff. In police hiring, nearly 100 percent of the money goes directly to job creation. These are good, middle-class jobs for middle-class people, and they can be filled immediately. These are often jobs for people who live in the hardest hit communities and will spend their money close to home.

Eliminating the 25-percent nonfederal match requirement, as the House bill does, will ensure that funds get to State and local law enforcement fast, meaning that law enforcement officers can be hired fast, without putting a new burden on states and localities that are already strapped during this time of financial distress. The match requirement could cause strained States and localities to decline COPS funding they would otherwise take, meaning fewer jobs would be created.

In its first hearing of the new Congress, the Senate Judiciary Committee received testimony from police chiefs and former Justice Department officials who explained that helping our local police during this economic downturn is needed now more than ever to keep America safe and keep our economy moving. Waiving the nonfederal match requirement in the economic recovery and reinvestment package will further ensure that police forces will be able to quickly refill their ranks and get more cops on the beat.

Ms. MIKULSKI. I thank the Senator from Vermont working with me to restore funding for this important program. We have worked together in the fight to turn back the cuts made by the previous administration to Federal resources that assist State and local communities in fighting violent crime. I know all too well the importance of the COPS Hiring Program and share your concerns about the effect of the economic downturn on our neighborhoods. We need to make sure those on the blue line have a full team to combat increased crime in communities. My subcommittee recognizes that need, which is why we put $3.5 billion total for State and local law enforcement activities. This includes $1 billion for COPS hiring grants, for which we waived the salary cap for hiring or rehiring career law enforcement officers and civilian public safety personnel.

Ms. KLOBUCHAR. I thank Chairwoman MIKULSKI and the Senator from Vermont. As we work toward economic recovery, ensuring the safety of America's communities is a critical component to economic stability and growth. Local governments across the country are facing extraordinary budget shortfalls necessitating cutbacks in services, programs, and personnel. I have heard from police in my State how drastically the substantial decline in Federal funding for State and local law enforcement has affected them. The financial situation in our country is dire and requires us to do everything we can to help our struggling police forces so they can protect our neighborhoods and communities.

Apart from the program's benefit to community safety, the COPS Hiring Program has obvious and important economic value. All of the funding goes directly to pay the salaries of officers hired to work in police departments across the country. Moreover, many neighborhoods in inner cities and rural towns throughout America that were once crime-ridden and depressed have flourished in the nineties and in this decade, creating businesses, increasing value, and powering local economies. Maintaining a strong community police presence can allow us to protect these economic gains.

With the rising unemployment rate and the foreseeable increase in crime, we cannot afford the continuing depletion of the ranks of our State and local law enforcement officers, nor can we ask them to operate without the resources needed to do the job effectively. Waiving the match requirement, as the House has done, will ensure that all States and localities will be able to afford and accept the COPS funding which is so badly needed.

No city or State has been spared from this recession. I know the chairwoman and the Senator from Vermont understand the importance of ensuring the COPS funding is as accessible as possible and have witnessed the need in their own States as well.

Ms. MIKULSKI. The Senator from Minnesota is right that this is an issue in Maryland, as well as nationwide. As the economic recovery package moves to conference, we will work to ensure mechanisms are in place for this critical program to be quickly and effectively implemented and accessible to those in need of assistance.

Mr. LEAHY. I thank Chairwoman MIKULSKI and Senator KLOBUCHAR. I am hopeful that as the economic recovery and reinvestment plan moves forward that we may work together to see if this important issue can be addressed in conference.

VICTIMS' COMPENSATION AND ASSISTANCE GRANTS

Mr. President, I wish to join Senator MIKULSKI, the chairwoman of the Commerce, Justice, and Science, CJS, Appropriations Subcommittee, in a colloquy about the importance of including additional funding to States for victims' compensation and assistance in the American Recovery and Reinvestment Act of 2009. I would first like to thank my friend from Maryland, who has worked so hard for the success of this bill. I commend her for fighting to include and maintain vital funding to support some of the most vulnerable Americans today, who need our help.

During the past year, victim service professionals have seen a clear increase in victimization and victim need. The National Crime Victim Helpline has experienced a 25-percent increase in calls,

as job losses and economic stress translate into increased violence in the home and in our communities. The shortage of affordable housing and rising unemployment are causing victims to require longer stays in emergency shelters. The increasing unemployment rate also means victims are less likely to have insurance to cover their crime-related expenses. In addition to significant State and county budget cuts, corporate and individual donations are decreasing. Across the board, victim service providers are strapped for funding.

As the Senate considers extraordinary legislation to address the current economic crisis, I believe it is imperative for the record to reflect the intent behind the provisions included in this legislation. To ensure that there is no doubt about what we intended, I ask my friend from Maryland whether it is her understanding that the funding included for State victims' compensation and assistance programs would be in addition to any funding states receive from their annual Victims of Crime Act, VOCA, Grants in the 2009 and 2010 appropriations bills?

Ms. MIKULSKI. I would say to the chairman of the Judiciary Committee, that is what we intend.

Mr. LEAHY. I thank the Senator. It is not the Senate's intent to deduct the funding for victims compensation included in the economic recovery package from the grant money they would receive from regular VOCA formula grants. Through this bill, we intend to provide extra funding for compensation programs, to pay more costs for victims' recovery.

Ms. MIKULSKI. That is correct as well. The funding I included in the CJS portion of economic recovery package for crime victim compensation programs will be in addition to their annual VOCA grants, and will not be deducted from their annual VOCA grants.

Mr. LEAHY. I thank the chairwoman of the CJS Appropriations Subcommittee, Senator MIKULSKI, for engaging in this colloquy. And I thank her for working with me to include victim services in the economic recovery legislation, which will help ensure that those already victimized by crime are not also victims of our economic crisis.

Mr. FEINGOLD. Mr. President, I commend this body for including provisions in the American Recovery and Reinvestment Act of 2009 to energize the fledgling green economy. While I am concerned by the enormous cost of this bill and lack of offsets, I recognize the need for urgent action as we strive to keep and create jobs for those who are suffering because of our failing economy.

Earlier this year, I introduced the Community Revitalization Energy Conservation Act, S. 222, as part of my E4 Initiative aimed at fueling job creation and spurring economic development. I am very pleased that so much of what I proposed in this bill has been included in the economic recovery package. The economic recovery legislation passed by the Senate includes an increase for the bond limit for the Qualified Energy Conservation Bond program from $800 million to $3.2 billion, more than a 300 percent increase. While I proposed increasing the program to $3.6 billion, I thank the chairman of the Finance Committee for including such a significant increase.

The second component of my Community Revitalization Energy Conservation Act would boost job growth and help businesses and homeowners go green by expanding the types of projects that are eligible for the Qualified Energy Conservation Bond program, which was established by Congress last fall. I am pleased the Senate adopted my amendment making this change as part of the economic recovery package.

Business and labor leaders and others in Wisconsin have told me about the tremendous potential for energy efficiency retrofits to generate more green-collar jobs. And already, Wisconsin communities are beginning to pursue these improvements. My amendment will allow Wisconsin to launch programs—modeled after Milwaukee's proposed Me2 program—throughout the State by utilizing the tax credit bonds allocated to Wisconsin under the Qualified Energy Conservation Bond program.

My amendment specifically ensures that States and local governments can increase the number of building retrofits by eliminating significant financial barriers facing homeowners and businesses interested in making energy efficiency and conservation improvements. It does this by allowing energy efficiency projects to be performed as part of a ''green community program'' using grants, loans, or other repayment mechanisms, such as periodic fees included on a utility bill or municipal bill. By using utilities as intermediaries, States and localities can ensure homeowners and businesses do not incur upfront costs and can gradually pay back the costs of the energy efficiency retrofits through their electricity or water bills at a rate that reflects energy savings. For example, if a monthly energy bill before energy efficiency improvements is $150 and with improvements the energy costs are down to $110, then at most a homeowner or business would pay $40 monthly towards paying off the costs of the energy efficiency building retrofits.

Presently, buildings account for 40 percent of total U.S. energy consumption and 70 percent of U.S. electricity consumption so there are significant gains to be made with energy efficiency. Projects that could qualify for the funding include heat-saving measures like insulation, electricity-saving measures like lighting and appliances, water-saving measures like low-flow shower heads and toilets, renewable energy generating devices like photovoltaic solar installations, storm water management like rain barrels, or other measures that also result in reduced energy use.

My amendment will allow Qualified Energy Conservation Bonds to support these partnerships among cities, utilities, homeowners, and businesses to make energy efficiency improvements within more people's reach and put Americans to work.

I thank Senator DEBBIE STABENOW for cosponsoring this amendment, and I appreciate the endorsements from the Air Conditioning Contractors of America, American Council for an Energy Efficient Economy, Apollo Alliance, National Electrical Contractors Association, National SAVE Energy Coalition, and the Plumbing-Heating-Cooling Contractors-National Association.

I am pleased my provision was included, offering another opportunity to help jumpstart the green economy and bring relief to our citizens as we reinvest in America. I intend to work with conferees to ensure the provision is retained and look forward to its enactment as part of economic recovery legislation.

I am also pleased that funding was included for several other energy programs that I sought funding for including the Energy Efficiency and Conservation Block Grant Program and the Weatherization Assistance Program, both of which can quickly generate jobs and generate lasting energy savings.

VOTE EXPLANATION

Mr. VOINOVICH. Mr. President, I rise today to speak in regards to a recent rollcall vote held in the Senate. On February 5, 2009, the Senate voted 32 to 65 on Senate amendment No. 140, which was offered by the junior Senator from Wisconsin. Due to an inadvertent error, I recorded my support for this amendment. I would like to take a few moments to clarify my views regarding this amendment.

As my colleagues know, this amendment would have allowed a point of order to be raised against congressionally directed spending for programs whose authorization has lapsed. This amendment would have hamstrung the Senate in the exercise of its constitutionally delegated ''power of the purse.'' Procedures already exist for Senators to strike provisions of bills they find objectionable, including language in appropriation bills. For example, Members may offer amendments to strike or amend such provisions as they deem appropriate. In addition, as my friend, the senior Senator from Hawaii, has pointed out, this amendment would have exempted funding requests for unauthorized programs included in the President's budget request from this so-called ''earmark point of order.'' In effect, this would have allowed unelected bureaucrats the ability to request funding for programs whose authorization has lapsed while denying elected and accountable members of the Senate from doing likewise.

Finally, important programs like the ones that could be affected by this point of order should not be penalized by Congress's inability to enact authorization bills in a timely fashion.

Together, the distinguished chairman and ranking member of the Senate Committee on Appropriations are taking steps to provide for unprecedented levels of transparency in the appropriations process. As a new member of the Senate Committee on Appropriations, I look forward to working with my colleagues to address the pressing issues that will come before the committee, and I appreciate the opportunity to clarify my views on this issue.

COMMITTEE ON FOREIGN RELATIONS RULES OF PROCEDURE

Mr. KERRY. Mr. President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask to have printed in the RECORD the rules of the Committee on Foreign Relations for the 111th Congress adopted by the committee on February 5, 2009.

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

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted February 5, 2009)

RULE 1—JURISDICTION

(a) *Substantive.*—In accordance with Senate Rule XXV.1(j), the jurisdiction of the committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Ocean and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements, except reciprocal trade agreements.
18. United Nations and its affiliated organizations.
19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The committee is also mandated by Senate Rule XXV.1(j) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) *Oversight.*—The committee also has a responsibility under Senate Rule XXVI.8, which provides that ''. . . . each standing committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the committee.''

(c) *''Advice and Consent'' Clauses.*—The committee has a special responsibility to assist the Senate in its constitutional function of providing ''advice and consent'' to all treaties entered into by the United States and all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) *Creation.*—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the committee and shall deal with such legislation and oversight of programs and policies as the committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the chairman or by vote of a majority of the committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee, the chairman or the committee may refer the matter to two or more subcommittees for joint consideration.

(b) *Assignments.*—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the committee may receive assignment to a second subcommittee until, in order of seniority, all members of the committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the committee may serve on more than four subcommittees at any one time.

The chairman and ranking member of the committee shall be *ex officio* members, without vote, of each subcommittee.

(c) *Meetings.*—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the chairman of the full committee or by decision of the full committee. Meetings of subcommittees shall be scheduled after consultation with the chairman of the committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full committee.

The proceedings of each subcommittee shall be governed by the rules of the full committee, subject to such authorizations or limitations as the committee may from time to time prescribe.

RULE 3—MEETINGS

(a) *Regular Meeting Day.*—The regular meeting day of the Committee on Foreign Relations for the transaction of committee business shall be on Tuesday of each week, unless otherwise directed by the chairman.

(b) *Additional Meetings.*—Additional meetings and hearings of the committee may be called by the chairman as he may deem necessary. If at least three members of the committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon filing of the request, the chief clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk shall notify all members of the committee that such special meeting will be held and inform them of its date and hour.

(c) *Hearings, Selection of Witnesses.*—To ensure that the issue which is the subject of the hearing is presented as fully and fairly as possible, whenever a hearing is conducted by the committee or a subcommittee upon any measure or matter, the ranking member of the committee or subcommittee may call an equal number of non-governmental witnesses selected by the ranking member to testify at that hearing.

(d) *Public Announcement.*—The committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any meeting or hearing to be conducted on any measure or matter at least one week in advance of such meetings or hearings, unless the chairman of the committee, or subcommittee, in consultation with the ranking member, determines that there is good cause to begin such meeting or hearing at an earlier date.

(e) *Procedure.*—Insofar as possible, proceedings of the committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the chairman, in consultation with the ranking member. The chairman, in consultation with the ranking member, may also propose special procedures to govern the consideration of particular matters by the committee.

(f) *Closed Sessions.*—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee or a subcommittee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual

to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by government officers and employees; or

(B) the information has been obtained by the government on a confidential basis, other than through an application by such person for a specific government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or government regulations.

A closed meeting may be opened by a majority vote of the committee.

(g) *Staff Attendance.*—A member of the committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at committee meetings.

Each member of the committee may designate members of his or her personal staff, who hold a top secret security clearance, for the purpose of their eligibility to attend closed sessions of the committee, subject to the same conditions set forth for committee staff under Rules 12, 13, and 14.

In addition, the majority leader and the minority leader of the Senate, if they are not otherwise members of the committee, may designate one member of their staff with a top secret security clearance to attend closed sessions of the committee, subject to the same conditions set forth for committee staff under Rules 12, 13, and 14. Staff of other Senators who are not members of the committee may not attend closed sessions of the committee.

Attendance of committee staff at meetings shall be limited to those designated by the staff director or the minority staff director.

The committee, by majority vote, or the chairman, with the concurrence of the ranking member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) *Testimony.*—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the committee and each subcommittee thereof shall consist of one member.

(b) *Business.*—A quorum for the transaction of committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the committee or subcommittee, including at least one member from each party.

(c) *Reporting.*—A majority of the membership of the committee, including at least one member from each party, shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the committee unless a majority of the committee members is physically present, and a majority of those present concurs.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) *General.*—The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the committee.

(b) *Presentation.*—If the chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

(c) *Filing of Statements.*—A witness appearing before the committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance, unless this requirement is waived by the chairman and the ranking member following their determination that there is good cause for failure to file such a statement. Witnesses appearing on behalf of the executive branch shall provide an additional 100 copies of their statement to the committee.

(d) *Expenses.*—Only the chairman may authorize expenditures of funds for the expenses of witnesses appearing before the committee or its subcommittees.

(e) *Requests.*—Any witness called for a hearing may submit a written request to the chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other unusual procedure. The chairman shall determine whether to grant any such request and shall notify the committee members of the request and of his decision.

RULE 7—SUBPOENAS

(a) *Authorization.*—The chairman or any other member of the committee, when authorized by a majority vote of the committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. At the request of any member of the committee, the committee shall authorize the issuance of a subpoena only at a meeting of the committee. When the committee authorizes a subpoena, it may be issued upon the signature of the chairman or any other member designated by the committee.

(b) *Return.*—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) *Depositions.*—At the direction of the committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) *Filing.*—When the committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) *Supplemental, Minority and Additional Views.*—A member of the committee who gives notice of his intentions to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee, with the 3 days to begin at 11:00 p.m. on the same day that the committee has ordered a measure or matter reported. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.

(c) *Rollcall Votes.*—The results of all rollcall votes taken in any meeting of the committee on any measure, or amendment thereto, shall be announced in the committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the committee.

RULE 9—TREATIES

(a) The committee is the only committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent to ratification. Because the House of Representatives has no role in the approval of treaties, the committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the committee and remains on its calendar from Congress to Congress until the committee takes action to report it to the Senate or recommend its return to the President, or until the committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress ''shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon.''

(d) Insofar as possible, the committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except in extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) *Waiting Requirement.*—Unless otherwise directed by the chairman and the ranking member, the Committee on Foreign Relations shall not consider any nomination until 6 calendar days after it has been formally submitted to the Senate.

(b) *Public Consideration.*—Nominees for any post who are invited to appear before the committee shall be heard in public session, unless a majority of the committee decrees otherwise, consistent with Rule 3(f).

(c) *Required Data.*—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) the nominee has filed a financial disclosure report and a related ethics undertaking with the committee; (3) the committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of

mission, the report required by Section 304(a)(4) of the Foreign Service Act of 1980 on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) *Foreign Travel.*—No member of the Committee on Foreign Relations or its staff shall travel abroad on committee business unless specifically authorized by the chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the ranking member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the committee within 30 days. This report shall be furnished to all members of the committee and shall not be otherwise disseminated without authorization of the chairman or the ranking member. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded to consult the Senate Code of Conduct, and, as appropriate, the Senate Select Committee on Ethics, in the case of travel sponsored by non-U.S. Government sources.

Any proposed travel by committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking member prior to submission of the request to the chairman and ranking member of the full committee.

(b) *Domestic Travel.*—All official travel in the United States by the committee staff shall be approved in advance by the staff director, or in the case of minority staff, by the minority staff director.

(c) *Personal Staff.*—As a general rule, no more than one member of the personal staff of a member of the committee may travel with that member with the approval of the chairman and the ranking member of the committee. During such travel, the personal staff member shall be considered to be an employee of the committee.

(d) *Personal Representatives of the Member (PRM).*—For the purposes of this rule regarding staff foreign travel, the officially-designated personal representative of the member (PRM) shall be deemed to have the same rights, duties, and responsibilities as members of the staff of the Committee on Foreign Relations. Furthermore, for the purposes of this section, each member of the committee may designate one personal staff member as the ''Personal Representative of the Member.''

RULE 12—TRANSCRIPTS

(a) *General.*—The Committee on Foreign Relations shall keep verbatim transcripts of all committee and subcommittee meetings and such transcripts shall remain in the custody of the committee, unless a majority of the committee decides otherwise. Transcripts of public hearings by the committee shall be published unless the chairman, with the concurrence of the ranking member, determines otherwise.

(b) *Classified or Restricted Transcripts.*—

(1) The chief clerk of the committee shall have responsibility for the maintenance and security of classified or restricted transcripts, and shall ensure that such transcripts are handled in a manner consistent with the requirements of the United States Senate Security Manual.

(2) A record shall be maintained of each use of classified or restricted transcripts as required by the Senate Security Manual.

(3) Classified transcripts may not leave the committee offices, or SVC–217 of the Capitol Vistors Center, except for the purpose of declassification.

(4) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(5) Subject to any additional restrictions imposed by the chairman with the concurrence of the ranking member, only the following persons are authorized to have access to classified or restricted transcripts.

(A) Members and staff of the committee in the committee offices or in SVC–217 of the Capitol Vistors Center;

(B) Designated personal representatives of members of the committee, and of the majority and minority leaders, with appropriate security clearances, in the committee offices or in SVC–217 of the Capitol Vistors Center;

(C) Senators not members of the committee, by permission of the chairman, in the committee offices or in SVC–217 of the Capitol Vistors Center; and

(D) Officials of the executive departments involved in the meeting, in the committee offices or SVC–217 of the Capitol Vistors Center.

(6) Any restrictions imposed upon access to a meeting of the committee shall also apply to the transcript of such meeting, except by special permission of the chairman and ranking member.

(7) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a committee meeting, members and staff shall not discuss with anyone the proceedings of the committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the chairman, the ranking member, or in the case of staff, by the staff director or minority staff director. A record shall be kept of all such authorizations.

(c) *Declassification.*—

(1) All noncurrent records of the committee are governed by Rule XI of the Standing Rules of the Senate and by S. Res. 474 (96th Congress). Any classified transcripts transferred to the National Archives and Records Administration under Rule XI may not be made available for public use unless they have been subject to declassification review in accordance with applicable laws or Executive orders.

(2) Any transcript or classified committee report, or any portion thereof, may be declassified, in accordance with applicable laws or Executive orders, sooner than the time period provided for under S. Res. 474 if:

(A) the chairman originates such action, with the concurrence of the ranking member;

(B) the other current members of the committee who participated in such meeting or report have been notified of the proposed declassification, and have not objected thereto, except that the committee by majority vote may overrule any objections thereby raised to early declassification; and

(C) the executive departments that participated in the meeting or originated the classified information have been consulted and consented to the declassification.

RULE 13—CLASSIFIED INFORMATION

(a) The handling of classified information in the Senate is governed by S. Res. 243 (100th Congress), which established the Office of Senate Security. All handling of classified information by the committee shall be consistent with the procedures set forth in the United States Senate Security Manual issued by the Office of Senate Security.

(b) The chief clerk is the security manager for the committee. The chief clerk shall be responsible for implementing the provisions of the Senate Security Manual and for serving as the committee liaison to the Office of Senate Security. The staff director, in consultation with the minority staff director, may appoint an alternate security manager as circumstances warrant.

(c) Classified material may only be transported between Senate offices by appropriately cleared staff members who have been specifically authorized to do so by the security manager.

(d) In general, Senators and staff undertake to confine their access to classified information on the basis of a ''need to know'' such information related to their committee responsibilities.

(e) The staff director is authorized to make such administrative regulations as may be necessary to carry out the provisions of this rule.

RULE 14—STAFF

(a) *Responsibilities.*—

(1) The staff works for the committee as a whole, under the general supervision of the chairman of the committee, and the immediate direction of the staff director, except that such part of the staff as is designated minority staff shall be under the general supervision of the ranking member and under the immediate direction of the minority staff director.

(2) Any member of the committee should feel free to call upon the staff at any time for assistance in connection with committee business. Members of the Senate not members of the committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the committee and its individual members, the staff has a responsibility to originate suggestions for committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the committee, or of individual Senators with particular interests.

(5) The staff shall pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) *Restrictions.*—

(1) The staff shall regard its relationship to the committee as a privileged one, in

the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(A) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(B) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the staff director, or, in the case of minority staff, from the minority staff director. In the case of the staff director and the minority staff director, such advance permission shall be obtained from the chairman or the ranking member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, committee action; and

(C) staff shall not discuss their private conversations with members of the committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the staff director or minority staff director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) *Status.*—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate, which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the committee with respect to certain matters, as well as the timing and procedure for their consideration in committee, may be governed by statute.

(b) *Amendment.*—These rules may be modified, amended, or repealed by a majority of the committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. However, rules of the committee which are based upon Senate rules may not be superseded by committee vote alone.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS RULES OF PROCEDURE

Mr. LIEBERMAN. Mr. President, the Committee on Homeland Security and Governmental Affairs has adopted rules governing its procedures for the 111th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator COLLINS, I ask unanimous consent to have a copy of the committee rules printed in the RECORD.

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

RULES OF PROCEDURE OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

PURSUANT TO RULE XXVI, SEC. 2, STANDING RULES OF THE SENATE

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. Meeting dates. The Committee shall hold its regular meetings on the first Wednesday of each month, when the Congress is in session, or at such other times as the Chairman shall determine. Additional meetings may be called by the Chairman as he/she deems necessary to expedite Committee business. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

B. Calling special Committee meetings. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the offices of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the clerk of the Committee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the offices of the Committee their written notice that a special Committee meeting will be held, specifying the date and hour thereof, and the Committee shall meet on that date and hour. Immediately upon the filing of such notice, the Committee clerk shall notify all Committee Members that such special meeting will be held and inform them of its date and hour. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

C. Meeting notices and agenda. Written notices of Committee meetings, accompanied by an agenda, enumerating the items of business to be considered, shall be sent to all Committee Members at least 3 days in advance of such meetings, excluding Saturdays, Sundays, and legal holidays in which the Senate is not in session. The written notices required by this Rule may be provided by electronic mail. In the event that unforeseen requirements or Committee business prevent a 3-day notice of either the meeting or agenda, the Committee staff shall communicate such notice and agenda, or any revisions to the agenda, as soon as practicable by telephone or otherwise to Members or appropriate staff assistants in their offices.

D. Open business meetings. Meetings for the transaction of Committee or Subcommittee business shall be conducted in open session, except that a meeting or series of meetings on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee Members when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.) Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chairman to enforce order on his or her own initiative and without any point of order being made by a Member of the Committee or Subcommittee; provided, further, that when the Chairman finds it necessary to maintain order, he/she shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

E. Prior notice of first degree amendments. It shall not be in order for the Committee, or a Subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless a written copy of such amendment has been delivered to each Member of the Committee or Subcommittee, as the case may be, and to the office of the Committee or Subcommittee, at least 24 hours before the meeting of the Committee or Subcommittee at which the amendment is to be proposed. The written copy of amendments in the first degree required by this Rule may be provided by electronic mail. This subsection may be waived by a majority of the Members present. This subsection shall apply only when at least 72 hours written notice of a session to mark-up a measure is provided to the Committee or Subcommittee.

F. Meeting transcript. The Committee or Subcommittee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting whether or not such meeting or any part thereof is closed to the public, unless a majority of the Committee or Subcommittee Members vote to forgo such a record. (Rule XXVI, Sec. 5(e), Standing Rules of the Senate.)

RULE 2. QUORUMS

A. Reporting measures and matters. A majority of the Members of the Committee shall constitute a quorum for reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

B. Transaction of routine business. One-third of the membership of the Committee shall constitute a quorum for the transaction of routine business, provided that one Member of the Minority is present. For the purpose of this paragraph, the term ''routine business'' includes the convening of a meeting and the consideration of any business of the Committee other than reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

C. Taking testimony. One Member of the Committee shall constitute a quorum for taking sworn or unsworn testimony. (Rule XXVI, Sec. 7(a)(2) and 7(c)(2), Standing Rules of the Senate.)

D. Subcommittee quorums. Subject to the provisions of sections 7(a)(1) and (2) of Rule XXVI of the Standing Rules of the Senate, the Subcommittees of this Committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

E. Proxies prohibited in establishment of quorum. Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. Quorum required. Subject to the provisions of subsection (E), no vote may be taken by the Committee, or any Subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. Reporting measures and matters. No measure, matter or recommendation shall be reported from the Committee unless a majority of the Committee Members are actually present, and the vote of the Committee to report a measure or matter shall require the concurrence of a majority of those Members who are actually present at the time the vote is taken. (Rule XXVI, Sec. 7(a)(1) and (3), Standing Rules of the Senate.)

C. Proxy voting. Proxy voting shall be allowed on all measures and matters before the Committee, or any Subcommittee thereof, except that, when the Committee, or any Subcommittee thereof, is voting to report a measure or matter, proxy votes shall be allowed solely for the purposes of recording a Member's position on the pending question. Proxy voting shall be allowed only if the absent Committee or Subcommittee Member has been informed of the matter on which he or she is being recorded and has affirmatively requested that he or she be so recorded. All proxies shall be filed with the chief clerk of the Committee or Subcommittee thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the Committee or Subcommittee as to how the Member establishes his or her vote to be recorded thereon. (Rule XXVI, Sec. 7(a)(3) and 7(c)(1), Standing Rules of the Senate.)

D. Announcement of vote. (1) Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such a measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee. (Rule XXVI, Sec. 7(c), Standing Rules of the Senate.)

(2) Whenever the Committee by roll call vote acts upon any measure or amendment thereto, other than reporting a measure or matter, the results thereof shall be announced in the Committee report on that measure unless previously announced by the Committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment thereto by each Member of the Committee who was present at the meeting. (Rule XXVI, Sec. 7(b), Standing Rules of the Senate.)

(3) In any case in which a roll call vote is announced, the tabulation of votes shall state separately the proxy vote recorded in favor of and in opposition to that measure, amendment thereto, or matter. (Rule XXVI, Sec. 7(b) and (c), Standing Rules of the Senate.)

E. Polling. (1) The Committee, or any Subcommittee thereof, may poll (a) internal Committee or Subcommittee matters including the Committee's or Subcommittee's staff, records and budget; (b) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and (c) other Committee or Subcommittee business other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public.

(2) Only the Chairman, or a Committee Member or staff officer designated by him/her, may undertake any poll of the Members of the Committee. If any Member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the Committee shall keep a record of polls; if a majority of the Members of the Committee determine that the polled matter is in one of the areas enumerated in subsection (D) of Rule 1, the record of the poll shall be confidential. Any Committee Member may move at the Committee meeting following the poll for a vote on the polled decision, such motion and vote to be subject to the provisions of subsection (D) of Rule 1, where applicable.

F. Naming postal facilities. The Committee will not consider any legislation that would name a postal facility for a living person with the exception of bills naming facilities after former Presidents and Vice Presidents of the United States, former Members of Congress over 70 years of age, former State or local elected officials over 70 years of age, former judges over 70 years of age, or wounded veterans.

RULE 4. CHAIRMANSHIP OF MEETINGS AND HEARINGS

The Chairman shall preside at all Committee meetings and hearings except that he or she shall designate a temporary Chairman to act in his or her place if he or she is unable to be present at a scheduled meeting or hearing. If the Chairman (or his or her designee) is absent 10 minutes after the scheduled time set for a meeting or hearing, the Ranking Majority Member present shall preside until the Chairman's arrival. If there is no Member of the Majority present, the Ranking Minority Member present, with the prior approval of the Chairman, may open and conduct the meeting or hearing until such time as a Member of the Majority arrives.

RULE 5. HEARINGS AND HEARING PROCEDURES

A. Announcement of hearings. The Committee, or any Subcommittee thereof, shall make public announcement of the date, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the Committee, or Subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Rule XXVI, Sec. 4(a), Standing Rules of the Senate.)

B. Open hearings. Each hearing conducted by the Committee, or any Subcommittee thereof, shall be open to the public, except that a hearing or series of hearings on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the hearing to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee Members when it is determined that the matters to be discussed or the testimony to be taken at such hearing or hearings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chairman to enforce order on his or her own initiative and without any point of order being made by a Member of the Committee or Subcommittee; provided, further, that when the Chairman finds it necessary to maintain order, he or she shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

C. Full Committee subpoenas. The Chairman, with the approval of the Ranking Minority Member of the Committee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing or deposition, provided that the Chairman may subpoena attendance or production without the approval of the Ranking Minority Member where the Chairman or a staff officer designated by him/her has not received notification from the Ranking Minority Member or a staff officer designated by him/her of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided in this subsection, the subpoena may be authorized by vote of the Members of the Committee. When the Committee or Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other Member of the Committee designated by the Chairman.

D. Witness counsel. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing or deposition to advise such witness while he or she is testifying, of his or her legal rights; provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Committee Chairman may rule that representation by counsel from the government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or

during testimony before the Committee by personal counsel not from the government, corporation, or association or by personal counsel not representing other witnesses. This subsection shall not be construed to excuse a witness from testifying in the event his or her counsel is ejected for conducting himself or herself in such manner so as to prevent, impede, disrupt, obstruct or interfere with the orderly administration of the hearings; nor shall this subsection be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

E. Witness transcripts. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his or her testimony whether in public or executive session shall be made available for inspection by the witness or his or her counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be provided to any witness at his or her expense if he or she so requests. Upon inspecting his or her transcript, within a time limit set by the chief clerk of the Committee, a witness may request changes in the transcript to correct errors of transcription and grammatical errors; the Chairman or a staff officer designated by him/her shall rule on such requests.

F. Impugned persons. Any person whose name is mentioned or is specifically identified, and who believes that evidence presented, or comment made by a Member of the Committee or staff officer, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his or her character or adversely affect his or her reputation may:

(a) File a sworn statement of facts relevant to the evidence or comment, which statement shall be considered for placement in the hearing record by the Committee;

(b) Request the opportunity to appear personally before the Committee to testify in his or her own behalf, which request shall be considered by the Committee; and

(c) Submit questions in writing which he or she requests be used for the cross-examination of other witnesses called by the Committee, which questions shall be considered for use by the Committee.

G. Radio, television, and photography. The Committee, or any Subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the Committee, or Subcommittee, may impose. (Rule XXVI, Sec. 5(c), Standing Rules of the Senate.)

H. Advance statements of witnesses. A witness appearing before the Committee, or any Subcommittee thereof, shall provide electronically a written statement of his or her proposed testimony at least 48 hours prior to his or her appearance. This requirement may be waived by the Chairman and the Ranking Minority Member following their determination that there is good cause for failure of compliance. (Rule XXVI, Sec. 4(b), Standing Rules of the Senate.)

I. Minority witnesses. In any hearings conducted by the Committee, or any Subcommittee thereof, the Minority Members of the Committee or Subcommittee shall be entitled, upon request to the Chairman by a majority of the Minority Members, to call witnesses of their selection during at least 1 day of such hearings. (Rule XXVI, Sec. 4(d), Standing Rules of the Senate.)

J. Full Committee depositions. Depositions may be taken prior to or after a hearing as provided in this subsection.

(1) Notices for the taking of depositions shall be authorized and issued by the Chairman, with the approval of the Ranking Minority Member of the Committee, provided that the Chairman may initiate depositions without the approval of the Ranking Minority Member where the Chairman or a staff officer designated by him/her has not received notification from the Ranking Minority Member or a staff officer designated by him/her of disapproval of the deposition within 72 hours, excluding Saturdays and Sundays, of being notified of the deposition notice. If a deposition notice is disapproved by the Ranking Minority Member as provided in this subsection, the deposition notice may be authorized by a vote of the Members of the Committee. Committee deposition notices shall specify a time and place for examination, and the name of the Committee Member or Members or staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear or produce unless the deposition notice was accompanied by a Committee subpoena.

(2) Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 5D.

(3) Oaths at depositions may be administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee Member or Members or staff. If a witness objects to a question and refuses to testify, the objection shall be noted for the record and the Committee Member or Members or staff may proceed with the remainder of the deposition.

(4) The Committee shall see that the testimony is transcribed or electronically recorded (which may include audio or audio/video recordings). If it is transcribed, the transcript shall be made available for inspection by the witness or his or her counsel under Committee supervision. The witness shall sign a copy of the transcript and may request changes to it, which shall be handled in accordance with the procedure set forth in subsection (E). If the witness fails to sign a copy, the staff shall note that fact on the transcript. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk of the Committee. The Chairman or a staff officer designated by him/her may stipulate with the witness to changes in the procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

RULE 6. COMMITTEE REPORTING PROCEDURES

A. Timely filing. When the Committee has ordered a measure or matter reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time. (Rule XXVI, Sec. 10(b), Standing Rules of the Senate.)

B. Supplemental, Minority, and additional views. A Member of the Committee who gives notice of his or her intention to file supplemental, Minority or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views. (Rule XXVI, Sec. 10(c), Standing Rules of the Senate.)

C. Notice by Subcommittee Chairmen. The Chairman of each Subcommittee shall notify the Chairman in writing whenever any measure has been ordered reported by such Subcommittee and is ready for consideration by the full Committee.

D. Draft reports of Subcommittees. All draft reports prepared by Subcommittees of this Committee on any measure or matter referred to it by the Chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the Committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the Committee at the earliest practicable time.

E. Impact statements in reports. All Committee reports, accompanying a bill or joint resolution of a public character reported by the Committee, shall contain (1) an estimate, made by the Committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next 5 years thereafter (or for the authorized duration of the proposed legislation, if less than 5 years); and (2) a comparison of such cost estimates with any made by a Federal agency; or (3) in lieu of such estimate or comparison, or both, a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(a), Standing Rules of the Senate.)

Each such report shall also contain an evaluation, made by the Committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution. The evaluation shall include (a) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (b) a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected, (c) a determination of the impact on the personal privacy of the individuals affected, and (d) a determination of the amount of paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution. Or, in lieu of the forgoing evaluation, the report shall include a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(b), Standing Rules of the Senate.)

RULE 7. SUBCOMMITTEES AND SUBCOMMITTEE PROCEDURES

A. Regularly established Subcommittees. The Committee shall have three regularly established Subcommittees. The Subcommittees are as follows: Permanent Subcommittee on Investigations; Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia; and Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security.

B. Ad hoc Subcommittees. Following consultation with the Ranking Minority Member, the Chairman shall, from time to time, establish such ad hoc Subcommittees as he/she deems necessary to expedite Committee business.

C. Subcommittee membership. Following consultation with the Majority Members, and the Ranking Minority Member of the Committee, the Chairman shall announce selections for membership on the Subcommittees referred to in paragraphs A and B, above.

D. Subcommittee meetings and hearings. Each Subcommittee of this Committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the Committee except as provided in Rules 2(D) and 7(E).

E. Subcommittee subpoenas. Each Subcommittee is authorized to adopt rules concerning subpoenas which need not be consistent with the rules of the Committee; provided, however, that in the event the Subcommittee authorizes the issuance of a subpoena pursuant to its own rules, a written notice of intent to issue the subpoena shall be provided to the Chairman and Ranking Minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him/her immediately upon such authorization, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member waive the 48-hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member that, in his or her opinion, it is necessary to issue a subpoena immediately.

F. Subcommittee budgets. During the first year of a new Congress, each Subcommittee that requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the Committee, by a date and time prescribed by the Chairman, its request for funds for the two (2) 12-month periods beginning on March 1 and extending through and including the last day of February of the 2 following years, which years comprise that Congress. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification addressed to the Chairman of the Committee, which shall include (1) a statement of the Subcommittee's area of activities, (2) its accomplishments during the preceding Congress detailed year by year, and (3) a table showing a comparison between (a) the funds authorized for expenditure during the preceding Congress detailed year by year, (b) the funds actually expended during that Congress detailed year by year, (c) the amount requested for each year of the Congress, and (d) the number of professional and clerical staff members and consultants employed by the Subcommittee during the preceding Congress detailed year by year and the number of such personnel requested for each year of the Congress. The Chairman may request additional reports from the Subcommittees regarding their activities and budgets at any time during a Congress. (Rule XXVI, Sec. 9, Standing Rules of the Senate.)

RULE 8. CONFIRMATION STANDARDS AND PROCEDURES

A. Standards. In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. The Committee shall recommend confirmation, upon finding that the nominee has the necessary integrity and is affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated.

B. Information concerning the Nominee. Each nominee shall submit the following information to the Committee:

(1) A detailed biographical resume which contains information relating to education, employment, and achievements;

(2) Financial information, in such specificity as the Committee deems necessary, including a list of assets and liabilities of the nominee and tax returns for the 3 years preceding the time of his or her nomination, and copies of other relevant documents requested by the Committee, such as a proposed blind trust agreement, necessary for the Committee's consideration; and,

(3) Copies of other relevant documents the Committee may request, such as responses to questions concerning the policies and programs the nominee intends to pursue upon taking office. At the request of the Chairman or the Ranking Minority Member, a nominee shall be required to submit a certified financial statement compiled by an independent auditor. Information received pursuant to this subsection shall be made available for public inspection; provided, however, that tax returns shall, after review by persons designated in subsection (C) of this rule, be placed under seal to ensure confidentiality.

C. Procedures for Committee inquiry. The Committee shall conduct an inquiry into the experience, qualifications, suitability, and integrity of nominees, and shall give particular attention to the following matters:

(1) A review of the biographical information provided by the nominee, including, but not limited to, any professional activities related to the duties of the office to which he or she is nominated;

(2) A review of the financial information provided by the nominee, including tax returns for the 3 years preceding the time of his or her nomination;

(3) A review of any actions, taken or proposed by the nominee, to remedy conflicts of interest; and

(4) A review of any personal or legal matter which may bear upon the nominee's qualifications for the office to which he or she is nominated. For the purpose of assisting the Committee in the conduct of this inquiry, a Majority investigator or investigators shall be designated by the Chairman and a Minority investigator or investigators shall be designated by the Ranking Minority Member. The Chairman, Ranking Minority Member, other Members of the Committee, and designated investigators shall have access to all investigative reports on nominees prepared by any Federal agency, except that only the Chairman, the Ranking Minority Member, or other Members of the Committee, upon request, shall have access to the report of the Federal Bureau of Investigation. The Committee may request the assistance of the General Accounting Office and any other such expert opinion as may be necessary in conducting its review of information provided by nominees.

D. Report on the Nominee. After a review of all information pertinent to the nomination, a confidential report on the nominee shall be made in the case of judicial nominees and may be made in the case of non-judicial nominees by the designated investigators to the Chairman and the Ranking Minority Member and, upon request, to any other Member of the Committee. The report shall summarize the steps taken by the Committee during its investigation of the nominee and the results of the Committee inquiry, including any unresolved matters that have been raised during the course of the inquiry.

E. Hearings. The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office, including the policies and programs which he or she will pursue while in that position. No hearing shall be held until at least 72 hours after the following events have occurred: The nominee has responded to prehearing questions submitted by the Committee; and, if applicable, the report described in subsection (D) has been made to the Chairman and Ranking Minority Member, and is available to other Members of the Committee, upon request.

F. Action on confirmation. A mark-up on a nomination shall not occur on the same day that the hearing on the nominee is held. In order to assist the Committee in reaching a recommendation on confirmation, the staff may make an oral presentation to the Committee at the mark-up, factually summarizing the nominee's background and the steps taken during the pre-hearing inquiry.

G. Application. The procedures contained in subsections (C), (D), (E), and (F) of this rule shall apply to persons nominated by the President to positions requiring their full-time service. At the discretion of the Chairman and Ranking Minority Member, those procedures may apply to persons nominated by the President to serve on a part-time basis.

RULE 9. PERSONNEL ACTIONS AFFECTING COMMITTEE STAFF

In accordance with Rule XLII of the Standing Rules of the Senate and the Congressional Accountability Act of 1995 (P.L. 104–1), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, state of physical handicap, or disability.

COMMITTEE ON VETERANS' AFFAIRS RULES OF PROCEDURE

Mr. AKAKA. Mr. President, the Committee on Veterans' Affairs has adopted rules governing its procedures for the 111th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator BURR, I ask unanimous consent to have a copy of the committee rules be printed in the RECORD.

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

COMMITTEE ON VETERANS' AFFAIRS

RULES OF PROCEDURE, 111TH CONGRESS

I. MEETINGS

(A) Unless otherwise ordered, the Committee shall meet on the first Wednesday of each month. The Chairman may, upon proper notice, call such additional meetings as deemed necessary.

(B) Except as provided in subparagraphs (b) and (d) of paragraph 5 of rule XXVI of the Standing Rules of the Senate, meetings of the Committee shall be open to the public. The Committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceedings of each meeting whether or not such meeting or any part thereof is closed to the public.

(C) The Chairman of the Committee, or the Ranking Majority Member present in the absence of the Chairman, or such other Member as the Chairman may designate, shall preside over all meetings.

(D) Except as provided in rule XXVI of the Standing Rules of the Senate, no meeting of

the Committee shall be scheduled except by majority vote of the Committee or by authorization of the Chairman of the Committee.

(E) The Committee shall notify the office designated by the Committee on Rules and Administration of the time, place, and purpose of each meeting. In the event such meeting is canceled, the Committee shall immediately notify such designated office.

(F) Written or electronic notice of a Committee meeting, accompanied by an agenda enumerating the items of business to be considered, shall be sent to all Committee Members at least 72 hours (not counting Saturdays, Sundays, and federal holidays) in advance of each meeting. In the event that the giving of such 72-hour notice is prevented by unforeseen requirements or Committee business, the Committee staff shall communicate notice by the quickest appropriate means to Members or appropriate staff assistants of Members and an agenda shall be furnished prior to the meeting.

(G) Subject to the second sentence of this paragraph, it shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless a written or electronic copy of such amendment has been delivered to each Member of the Committee at least 24 hours before the meeting at which the amendment is to be proposed. This paragraph may be waived by a majority vote of the Members and shall apply only when 72-hour written notice has been provided in accordance with paragraph (F).

II. QUORUMS

(A) Subject to the provisions of paragraph (B), eight Members of the Committee shall constitute a quorum for the reporting or approving of any measure or matter or recommendation. Five Members of the Committee shall constitute a quorum for purposes of transacting any other business.

(B) In order to transact any business at a Committee meeting, at least one Member of the minority shall be present. If, at any meeting, business cannot be transacted because of the absence of such a Member, the matter shall lay over for a calendar day. If the presence of a minority Member is not then obtained, business may be transacted by the appropriate quorum.

(C) One Member shall constitute a quorum for the purpose of receiving testimony.

III. VOTING

(A) Votes may be cast by proxy. A proxy shall be written and may be conditioned by personal instructions. A proxy shall be valid only for the day given.

(B) There shall be a complete record kept of all Committee actions. Such record shall contain the vote cast by each Member of the Committee on any question on which a roll call vote is requested.

IV. HEARINGS AND HEARING PROCEDURES

(A) Except as specifically otherwise provided, the rules governing meetings shall govern hearings.

(B) At least one week in advance of the date of any hearing, the Committee shall undertake, consistent with the provisions of paragraph 4 of rule XXVI of the Standing Rules of the Senate, to make public announcements of the date, place, time, and subject matter of such hearing.

(C) The Committee shall require each witness who is scheduled to testify at any hearing to file 40 copies of such witness' testimony with the Committee not later than 48 hours prior to the witness' scheduled appearance unless the Chairman and Ranking Minority Member determine there is good cause for failure to do so.

(D) The presiding Member at any hearing is authorized to limit the time allotted to each witness appearing before the Committee.

(E) The Chairman, with the concurrence of the Ranking Minority Member of the Committee, is authorized to subpoena the attendance of witnesses and the production of memoranda, documents, records, and any other materials. If the Chairman or a Committee staff member designated by the Chairman has not received from the Ranking Minority Member or a Committee staff member designated by the Ranking Minority Member notice of the Ranking Minority Member's non-concurrence in the subpoena within 48 hours (excluding Saturdays, Sundays, and federal holidays) of being notified of the Chairman's intention to subpoena attendance or production, the Chairman is authorized following the end of the 48-hour period involved to subpoena the same without the Ranking Minority Member's concurrence. Regardless of whether a subpoena has been concurred in by the Ranking Minority Member, such subpoena may be authorized by vote of the Members of the Committee. When the Committee or Chairman authorizes a subpoena, the subpoena may be issued upon the signature of the Chairman or of any other Member of the Committee designated by the Chairman.

(F) Except as specified in Committee Rule VII (requiring oaths, under certain circumstances, at hearings to confirm Presidential nominations), witnesses at hearings will be required to give testimony under oath whenever the presiding Member deems such to be advisable.

V. MEDIA COVERAGE

Any Committee meeting or hearing which is open to the public may be covered by television, radio, and print media. Photographers, reporters, and crew members using mechanical recording, filming, or broadcasting devices shall position and use their equipment so as not to interfere with the seating, vision, or hearing of the Committee Members or staff or with the orderly conduct of the meeting or hearing. The presiding Member of the meeting or hearing may for good cause terminate, in whole or in part, the use of such mechanical devices or take such other action as the circumstances and the orderly conduct of the meeting or hearing may warrant.

VI. GENERAL

All applicable requirements of the Standing Rules of the Senate shall govern the Committee.

VII. PRESIDENTIAL NOMINATIONS

(A) Each Presidential nominee whose nomination is subject to Senate confirmation and referred to this Committee shall submit a statement of his or her background and financial interests, including the financial interests of his or her spouse and of children living in the nominee's household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts:

(1) Information concerning employment, education, and background of the nominee which generally relates to the position to which the individual is nominated and which is to be made public; and

(2) Information concerning the financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

(B) At any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any Member, any other witness shall be under oath.

(C) Committee action on a nomination, including hearings or a meeting to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the Ranking Minority Member, waives this waiting period.

VIII. NAMING OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES

It is the policy of the Committee that no Department of Veterans Affairs facility shall be named after any individual unless:

(A) Such individual is deceased and was:

(1) A veteran who (i) was instrumental in the construction or the operation of the facility to be named, or (ii) was a recipient of the Medal of Honor or, as determined by the Chairman and Ranking Minority Member, otherwise performed military service of an extraordinarily distinguished character;

(2) A Member of the United States House of Representatives or Senate who had a direct association with such facility;

(3) An Administrator of Veterans Affairs, a Secretary of Veterans Affairs, a Secretary of Defense or of a service branch, or a military or other Federal civilian official of comparable or higher rank; or

(4) An individual who, as determined by the Chairman and Ranking Minority Member, performed outstanding service for veterans.

(B) Each Member of the Congressional delegation representing the State in which the designated facility is located must indicate in writing such Member's support of the proposal to name such facility after such individual.

(C) The pertinent State department or chapter of each Congressionally chartered veterans' organization having a national membership of at least 500,000 must indicate in writing its support of such proposal.

IX. AMENDMENTS TO THE RULES

The rules of the Committee may be changed, modified, amended, or suspended at any time provided, however, that no less than a majority of the entire membership so determine at a regular meeting with due notice or at a meeting specifically called for that purpose. The rules governing quorums for reporting legislative matters shall govern rules changes, modification, amendments, or suspension.

TRIBUTE TO CONGRESSMAN JOHN DINGELL

Mr. LEVIN. Mr. President, today Congressman JOHN DINGELL of Michigan becomes the longest serving member in the history of the United States House of Representatives. As we observe this notable milestone in time, however, JOHN DINGELL's longevity is really a footnote that does not even begin to tell the full story of JOHN and his wonderful partner Debbie.

Fifty-four years from now, or 154 years from now, when historians look back for models of public service, JOHN DINGELL will stand among the best America has to offer. His commitment to the public good, his sense of fiduciary duty as a public servant and most of all the spirit, the passion, and the motivation that JOHN brings to his work day in and day out, year after year, are nothing short of remarkable.

Before JOHN DINGELL became a Member of the House, he was a son and a student of the House. His father, Congressman John Dingell Sr., was a New

Dealer and a passionate advocate of FDR's agenda.

As a House page in the late 1930s and early 1940s, JOHN learned the intricacies of House procedure. He got to know his way around, and developed a profound respect for leaders like Sam Rayburn.

Even in his youth, JOHN was anything but a passive observer. When Japan attacked Pearl Harbor and FDR came to Congress and declared it a ''date which will live in infamy,'' JOHN was in the Chamber. In fact, JOHN saw to it that one audio recorder continued to run even after FDR's speech ended, so thanks to him we have a fascinating record of the deliberations afterward that quickly led to the declaration of war on Japan.

When he was 18, JOHN enlisted in the Army. After the war he returned to Washington, and, ever a student of the House, he worked as an elevator operator here in the Capitol while attending Georgetown, where he received undergraduate and law degrees. As a young lawyer, JOHN served as a clerk for Sandy's and my uncle, Theodore Levin, a Federal judge in Michigan who, along with our Dad, had actually campaigned for JOHN's Dad in the 1930s.

A few years later, when his father passed away, JOHN Jr. won the special election to fill the vacant seat. The son and student became a Member of the institution that he had studied so closely and that he respected so deeply. And over the years, the Member would become the Chairman, and the Chairman would become the Dean—the most senior member of the House of Representatives.

While that alone is a significant achievement, the true mark of JOHN DINGELL is his devotion to public service that connects him to the great men and women of America's storied past whose statues grace this Capitol, and the legislation he has influenced that has so improved the lives of our people. He contributed to the creation of Medicaid and Medicare, to the Civil Rights bills, to the Endangered Species Act and the Clean Air Act. He fought to protect Social Security—which his father helped create.

Like all great fighters, when JOHN DINGELL is knocked down, he picks himself up. For example, he has helped keep the fight for universal health care alive by introducing legislation to achieve it in each new Congress, just as his father did.

JOHN can be tough, running procedural circles around even the most skilled legislative adversaries. And he can be gruff, for instance comparing a proposal he thinks is foolish or unnecessary to ''side pockets on a cow'' or ''feathers on a fish.''

But this tough and gruff Congressman has a softer side. His wife Debbie is personable and glowing and brings extraordinary energy to everything she touches. JOHN and Debbie are each powerhouses in their own right, and their relationship is a perfect synergy.

While Debbie is everywhere, raising funds for great causes, creating personal relationships that enrich so many lives, JOHN is only where he needs to be—focusing like a laser on legislative and policy goals.

There is a common thread in the Dingells' legislative maneuvers, charitable endeavors and even JOHN's unique use of language: they are all devoted to the goal of helping working people. People back home love ''Big JOHN'' because they know he is on their side—fighting for their jobs, their health, their children.

That is why, as much evidence as there is of John's influence and respect in the House of Representatives, the best way to really understand JOHN's impact on the people he represents is to make a visit to ''Dingell Country.'' In JOHN's district, people have placed JOHN's name on a road, a bridge, a park and a library not just to honor him but to inspire others. Just talk to a few of JOHN's fellow veterans at the VA Medical Center in Detroit. Those vets feel a little better and a little stronger knowing that they live in the JOHN DINGELL VA Medical Center. Or stop by the UAW Region 1a headquarters in Taylor, Michigan, and tell them you've stood shoulder to shoulder with JOHN DINGELL fighting for American workers—and you won't get a warmer welcome anywhere in America.

JOHN is beloved in his district, and he has been a role model to me and to my older brother Sandy since we arrived in Congress. He has also been a wonderful mentor to us and to the entire Michigan delegation.

JOHN has been a son of the House, a student of the House, a Member and a Chairman in the House he loves so much. On behalf of Michigan, I offer thanks to the now all-time Dean of the House of Representatives, JOHN DINGELL, a great institution within a great institution, for his devotion to public service and to the people of Michigan and the Nation.

BELARUS IMPRISONMENT

Mr. CARDIN. Mr. President, as chairman of the Helsinki Commission, I would like to bring to the attention of the Senate a situation which is literally a matter of life and death for an American citizen, Emanuel Zeltser, who has been imprisoned in Belarus since March 12, 2008. Mr. Zeltser is in desperate and immediate need of serious medical treatment—including a coronary bypass operation.

The poor human rights record of President Lukashenka's regime is well known. No American—indeed no human being—should be subjected to the kind of treatment Mr. Zeltser has been forced to endure during his incarceration. Despite Mr. Zeltser's grave health condition—he suffers from heart disease, type 2 diabetes, severe arthritis, gout, and dangerously elevated blood pressure—Belarusian authorities have repeatedly refused to provide Mr. Zeltser with his prescribed medications.

He was initially denied two independent medical evaluations and he has reported being physically assaulted and abused while incarcerated. Amnesty International has urged that Belarusian authorities no longer subject Mr. Zeltser to ''further torture and other ill-treatment.''

Mr. Zeltser was convicted of ''using false official documents'' and ''attempted economic espionage'' in a closed judicial proceeding. The U.S. Embassy in Minsk criticized the proceedings, noting that it was denied the opportunity to observe the trial. The State Department has repeatedly called for Mr. Zeltser's release on humanitarian grounds. So have others in Congress, especially my colleague on the Helsinki Commission, cochairman Representative ALCEE HASTINGS.

But now the situation appears dire. Earlier this month, Mr. Zeltser was examined by an American doctor. It was only the second time an American physician has been permitted to see Mr. Zeltser. The doctor concluded that ''there is a clear and high risk of sudden death from heart attack unless the patient is immediately transferred to a U.S. hospital with the proper equipment and facilities. . . . Refusal to transfer Mr. Zeltser to a U.S. hospital is equivalent to a death sentence.'' Specifically, Mr. Zeltser is in dire need of a coronary bypass procedure. The doctor also determined that because he had been denied prescribed diabetes medication, Mr. Zeltser's left foot may need to be amputated.

In response to a press inquiry in December, the State Department called for ''the Belarusian authorities to release Mr. Zeltser on humanitarian grounds before this situation takes an irrevocable turn.'' Based on the recent doctor's report it is apparent that such an irrevocable turn is imminent unless this American citizen can be brought home promptly for the medical treatment necessary to save his life.

Belarus has taken some tentative steps to improve its notably poor human rights record, in particular the release of several political prisoners last August. However, Mr. Zeltser's continued, and potentially terminal, imprisonment threatens to override those initially encouraging signs. As such, I strongly urge the Belarusian authorities to release Emanuel Zeltser on humanitarian grounds so that he may obtain the immediate medical treatment his doctor has concluded is required if he is to live.

REMEMBERING CONGRESSMAN WENDELL WYATT

Mr. WYDEN. Mr. President, I wish to mark a sad occasion: the recent death of one of Oregon's most respected Members of Congress, Wendell Wyatt, who represented the First District of Oregon from 1965 to 1975. He died peacefully on January 28th at the age of 91 in Portland, OR.

With good humor and little interest in partisanship, Wendell Wyatt's congressional career began with his service on the House Interior Committee. He is best known, however, for his work on the House Interior Appropriations Subcommittee where his working relationship with its chair, distinguished Washingtonian Julia Butler Hansen, was a model of effective teamwork across party lines and—in this case—across the Columbia River that separated their congressional districts.

The same was true of his relationship with Democratic Congresswoman Edith Green, who represented Oregon's Third Congressional District, which includes most of Portland and is the district I was privileged to represent in the House before coming to the Senate. In fact, my Portland office is housed in the Edith Green-Wendell Wyatt Federal Building. Congressman Wyatt and Congresswoman Green—known simply in Oregon as Edith and Wendell—worked tirelessly together on many worthwhile civic projects that improved their city and their adjoining congressional districts. Their good work helped lay the foundation for the Portland we are proud of today.

Wendell Wyatt was an advocate for the Federal workforce in Oregon, Government workers he regarded as good civil servants dedicated to serving the public interest. He also loved the individual service element of his work in Congress. Today, most offices call this ''casework,'' but to Wendell Wyatt it gave him the chance to help an individual constituent with his or her problem when the Federal Government was unresponsive or trying to put a square peg in a round hole. He never disrespected any Government official who was implementing something that had an adverse impact on one of his constituents, but he pressed the case strongly and effectively.

As a young Member of the House, I remember other House members and longtime staffers talking about Wendell with great affection and admiration, someone who worked hard, got results, and always with good humor and without partisanship.

His colleagues during that era in Congress included Gerald Ford, Melvin Laird, George H.W. Bush, and other like-minded House Republican moderates. Like them, he epitomized the saying that ''You could disagree without being disagreeable.'' In Oregon, he was part of a generation of elected officials whose goals were service, not partisanship, including Mark Hatfield and Tom McCall.

When he retired from Congress in 1974, Wendell Wyatt returned to Oregon to become a partner in what is now the State's second largest law firm, Schwabe Williamson & Wyatt, where he is remembered as someone who rolled up his sleeves to help his clients, to close the deal, and to help add economic activity that created jobs for Oregonians.

The commitment to public service runs strong in Wendell Wyatt's family. His son, Bill, was a member of the Oregon Legislature as a young man, later the chief of staff to an Oregon Governor, and is now the very effective executive director of the Port of Portland. Bill Wyatt is a longtime friend of mine and of others in the economic and political leadership of our State, and we all know that the Wyatt bloodline for service to our State has passed from father to son.

I join his family, colleagues in his law firm, and his many good friends in mourning his death. I join the good citizens of the First Congressional District of Oregon, who salute his effective voice for them in Congress. And I stand with so many people throughout Oregon whose lives are better because of Wendell Wyatt's commitment to service in Congress.

Mr. President, I ask unanimous consent that at the conclusion of my remarks a few articles about Congressman Wyatt be printed in the RECORD. First, is the announcement of his death that appeared in the Portland City Club Bulletin, followed by the notice of Wyatt's death that appeared in the Oregonian newspaper and the warm editorial about Wendell. I ask that there next be printed the article in his hometown newspaper, the Daily Astorian, in which local residents reflect on his service to their community. The final document that I request be printed in the RECORD is the editorial in the Daily Astorian paying tribute to the dignity with which Wendell Wyatt served his district, our State and the Congress.

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

[From the Portland City Club Bulletin, Feb. 13, 2009]

CITY CLUB REMEMBERS WENDELL J. WYATT

Former City Club member Wendell J. Wyatt passed away on Wednesday, January 28 at the age of 91. Wyatt graduated from the University of Oregon School of Law. He served as an FBI agent and a Marine Corps pilot before being elected to Congress where he served a distinguished, decade-long career. After retiring from office, Wyatt became a partner in the law firm Schwabe, Williamson & Wyatt.

Wyatt was a Club member for almost twenty years. He made notable speaking appearances at City Club with the late Congresswoman Edith Green, and the Federal Building on Third Street is dedicated jointly in their names. Wyatt's law firm is a City Club sponsor and his family members continue to play a significant role in the Club.

Wyatt's contributions to the community will be celebrated at 1 p.m. Saturday, Feb. 21, 2008 in St. Anne's Chapel at Marylhurst University.

[From the Oregonian, Jan. 29, 2009]

EX-CONGRESSMAN WENDELL WYATT DIES AT 91

(By Joan Harvey)

Wendell Wyatt, who represented Oregon's 1st Congressional District for 10 years, died Wednesday in his Portland home. He was 91.

Wyatt was a popular and respected Republican lawmaker who was known as an adroit deal-maker.

As a member of the House Committee on the Interior and later the powerful House Appropriations Committee, he finessed through Congress bills that permanently affected Oregon, including bills that established the Tualatin Reclamation Project (Scoggins Dam) in Washington County, the Columbia River 40-foot shipping channel from Astoria to Portland, and Lincoln City's Cascade Head Scenic Area, as well as a bill authorizing the $4 million purchase of ranchlands along the Snake River for public recreation.

He stayed active in Republican politics after retiring from Congress. He became a partner in the law firm of Schwabe Williamson & Wyatt, and was a commissioner for the Port of Portland and a lobbyist. He became inactive as an attorney in 2001 but continued consulting for the firm.

In 1975, he pleaded guilty to a technical violation of federal campaign laws, admitting that as chairman of the Oregon Committee to Re-Elect the President, he failed to report a donation to President Richard Nixon's campaign. The Oregonian defended him in an editorial:

''He has had a long and honorable career both in private and public life, including 10 years in Congress; and he has gained the reputation of being not only an exceptionally effective public servant, but one who is scrupulously honest in all of his dealings. He has had both the respect and warm friendship of colleagues in both parties. No one who knows him well believes he intentionally violated the law.''

Wyatt was born June 15, 1917, in Eugene and moved to Portland as a teenager. He was editor of the Jefferson High School newspaper and went to the University of Oregon. He dropped out and joined The Oregonian as a copy aide. After a year, he applied to the University of Oregon Law School and was admitted without an undergraduate degree.

Wayne Morse was one of his professors, and Wyatt often recalled four-hour evening sessions led by the man who would become the legendary ''Tiger of the Senate.'' Later, the two became political adversaries.

After obtaining his law degree, he was an FBI agent and then served as a Marine Corps pilot in the Pacific during World War II.

He moved to Astoria after the war and joined the law firm of Albin Norblad, a former Oregon governor and father of U.S. Rep. Walter Norblad; after Walter Norblad died in 1964, Wyatt was elected to fill his vacancy. He was re-elected four times, retiring in 1975, the same year colleague and friend Edith Green, a Democratic congresswoman for 20 years, stepped down. The federal building in downtown Portland is named for Green and Wyatt.

Wyatt married Anne Elizabeth Buchanan in the mid-1940s; they divorced. He married Faye Hill in 1962. She predeceased him. He is survived by daughters, Ann Wyatt and Jane Wyatt; stepdaughter, Sandi Kinsley; son, Wendell ''Bill'' Jr., executive director of the Port of Portland; stepson, Larry D. Hill; four grandchildren; and one great-grandchild.

A memorial service will be at 1 p.m. Saturday, Feb. 21, 2009, in St. Anne's Chapel at Marylhurst University. The family suggests remembrances to the Clatsop County Historical Society. Arrangements are by Finley's Sunset Hills Mortuary.

WENDELL WYATT: SUCCESS THROUGH PERSONAL VALUES

(By The Oregonian Editorial Board)

Back when Rep. Wendell Wyatt, R-Ore., was in Congress, from 1965 to 1975, you didn't hear the word bipartisan much, because at many levels of American politics, it was a way of life, thus taken for granted.

Wyatt died this week at age 91 after a life in politics, law and community leadership. He should be remembered as someone who

put the problems of his individual constituents at the forefront of his service in the U.S. House of Representatives.

His congressional office was geared toward listening to constituent problems, then bending every effort to solve them—whether the issue was of great national or regional import or simply a mishandled Social Security benefit. Wyatt himself often got personally engaged in the most challenging and vexing details of constituent service.

It would not have been useful for Wyatt or his constituents for him to adopt a highly partisan stance when he was in Congress.

He was elected to the House in the small GOP freshman class of 1964, the year that Democratic President Lyndon B. Johnson laid a historic electoral whipping on Sen. Barry Goldwater, R-Ariz., the great hope of the right wing of the Republican party.

It was clear that Wyatt was never going to be part of the majority, and he never was. Thus he had to develop the skills necessary to adequately represent all of the people of Oregon's 1st Congressional District.

''This was more effective than sitting in the back benches and throwing spitballs all day long,'' said his son Bill Wyatt. Instead, the elder Wyatt developed good working relationships with powerful Democrats such as Wayne Aspinall, D-Colo., chairman of the House Interior Committee and Tom Foley, who also entered Congress in 1964 and, much later, became Speaker of the House for a short time.

As a congressman, Wyatt was pro-choice, pro-gun-control and the driving force behind efforts to bring commerce to Oregon via the Columbia River. His social views would not sit well in the modern Republican Party, at least the official part of it. They didn't sit that well with the party's establishment back then either, but it still was possible to disagree and be independent-minded and still remain in good standing within the party. Today? It's not as clear. But Wyatt's views then are positions that many Republicans hold privately—or even not-so-privately—today, even if the right's hold on party leadership is much stronger.

For Wyatt, though, service was a far bigger motivator than political ideology. In his last campaign, Wyatt even went retail with his orientation toward constituents. His campaign slogan was: ''Wendell Wyatt, your door-to-door Congressman.''

His son Bill, of course, has been prominent in Oregon political and economic circles for years, serving as chief of staff for Gov. John Kitzhaber and now as executive director of the Port of Portland. Bill Wyatt also tried elective politics early in his career, as a Democratic candidate for the Oregon Legislature. Worried about whether he would somehow step on his father's political toes, the younger Wyatt brought the matter up. ''He told me, 'What makes you happy makes me happy. You don't have to protect me from what you think is the right thing to do.','' Bill Wyatt said. ''He was able to separate what was most important to him and keep it there.''

That was the key to what made Wendell Wyatt successful in life—public and private.

[From the Daily Astorian, Feb. 9, 2009]

NORTH COAST MOURNS FORMER OREGON CONGRESSMAN WENDELL WYATT

(By Patrick Webb)

Former Astoria Congressman Wendell Wyatt died Wednesday. He was 91.

Wyatt, a Republican, served the 1st Congressional District from 1964 until retiring in 1975.

Tributes to him focused on his honesty and his ability to get the job done.

Denny Thompson of Astoria, who served as honorary Finnish Consul for 35 years, worked closely with Wyatt and praised his ability to reach across the aisle.

''My union friends were all Democrats, but they were working for Wendell Wyatt. They all respected him and he respected everyone in return,'' said Thompson, whose wife, Frankye, was Wyatt's campaign chairwoman for Clatsop County.

''He did everything the proper way—he was completely honest, and he did as much for Clatsop County as anyone.''

Wyatt was a well-respected Republican leader who worked especially effectively with Democrat Congresswoman Edith Green. The federal building in Portland was later named for them.

Born in Eugene in 1917, Wyatt moved with his family to Portland. He graduated from Jefferson High School, where he had been editor of the high school newspaper, in 1935. He worked briefly as a copy aide for The Oregonian newspaper, earned a bachelor's degree from the University of Oregon in 1941 then worked briefly as an FBI agent.

When World War II broke out in the Pacific, he enlisted in the U.S. Marine Air Corps and served as a pilot from 1942 until 1946.

Afterward, he moved to Astoria and worked for the law firm of Albin Norblad, the former Oregon governor and father of U.S. Rep. Walter Norblad.

Tom Brownhill, of Eugene, was district attorney in Clatsop County from 1952 to 1960 and regularly faced Wyatt in the courtroom. ''I had a lot of cases against him,'' said Brownhill, whose daughter Paula, continues the family's legal tradition as a circuit court judge. ''As a lawyer, when he got into a case, he was all-in.''

Wyatt hired longtime legal secretary Doris Hughes from another firm in the 1950s—by offering her a raise from $160 to $200 a month. Hughes remembered Wyatt today as a ''wonderful person.''

''He gave the best dictation of anyone I know,'' she recalled. ''He was so smooth. The words just flowed out.''

Wyatt was chairman of the Oregon State Republican Central Committee from 1955 until 1957. During that time, George C. Fulton, of Astoria, another contemporary, worked closely with him while serving as Clatsop County GOP chairman.

Fulton, also an attorney, described Wyatt as a hard worker. ''He was a good lawyer. He worked hard and he played hard.''

When Walter Norblad died in 1965, Wyatt was elected to his congressional seat and served five terms, retiring in 1974.

Ted Bugas, a Bumblebee Seafood executive and supporter of Salmon For All, knew Wyatt because both had worked for the FBI and their Astoria offices were in the Post Office and across the street.

He recalled one incident as if yesterday.

''One morning we woke up and thought 'There's someone in the house! The wife and I were still in bed. In came Wendell—into our room—and said, 'I might go to Congress. What do you think of that?' ''

Bugas worked with Wyatt on fisheries issues, often traveling to Washington, D.C., often for lobbying efforts. His daughter, Christine, served as an intern in Wyatt's Congressional office.

''He was a great personality,'' said Bugas, who splits his time in retirement between Astoria and California. ''He was very pleasant.''

He worked on bills that established the Tualatin Reclamation Project in Washington County and the 40-foot shipping channel in the Columbia River from Astoria to Portland.

He was also credited with bills that created Lincoln City's Cascade Head Scenic Area, as well as a bill authorizing the $4 million purchase of ranchlands along the Snake River for public recreation.

U.S. Sen. Jeff Merkley said, ''Wendell Wyatt truly made his mark on Oregon. Everyone who has appreciated Cascade Head owes Congressman Wyatt a debt of gratitude for establishing this scenic area and those who visit public lands along the Snake River can thank Wendell Wyatt for opening the region to recreation.''

The Daily Astorian Publisher Steve Forrester covered Wyatt's political activities in 1974 while substituting for Washington columnist A. Robert Smith.

''Wyatt said to me that he earned 'the equivalent of a master's degree' every time he took on a new issue. He was the kind of Republican we no longer see—a solid, pragmatic middle-of-the-road guy,'' Forrester said.

''He was close to President Richard Nixon, and he was unfortunately tarred with that brush when he admitted to his involvement with Nixon's fund-raising—an embarrassing moment in an otherwise unblemished political career.''

In 1975, Wyatt admitted a technical violation of campaign laws for failing to report an Oregon GOP donation to Nixon.

He stayed active in Republican politics after retiring from Congress and became a partner in the law firm of Schwabe Williamson and Wyatt until his retirement.

He became inactive as an attorney in 2001, but continued consulting for the firm. He also served as a commissioner for the Port of Portland and a lobbyist.

Wyatt was married twice. He divorced his first wife, Anne Elizabeth Buchanan. He married Faye Hill in 1962. She died last year. He had two daughters, Ann and Jane, and a son, Wendell ''Bill'' Wyatt Jr., who is executive director of the Port of Portland and a former chief of staff for Gov. John Kitzhaber, plus step son and stepdaughter, four grandchildren and one great grandchild.

A memorial service will be held 1 p.m. Feb. 21 at St. Anne's Chapel at Marylhurst University near Lake Oswego. Contributions may go to the Clatsop County Historical Society.

[From the Daily Astorian, Feb. 2, 2009]

WENDELL WYATT SERVED WITH DIGNITY

Wendell Wyatt, who died last week, was one of those old-school, gentlemanly fellows who served his country and his community without the need for a brass band playing in the background.

A Republican, he served the 1st Congressional District, which includes Astoria and the North Coast, from 1965 until retiring in 1975.

An Oregonian through and through, he moved to Astoria to practice law after serving as a U.S. Marine Air Corps pilot in World War II. His buddies around the courthouse smile when they remember he practiced law with what they describe as ''considerable tenacity.''

When Congressman Walter Norblad died in office, Wyatt took over.

In the decade that followed, he served with dignity and pragmatism. Often politicians wax eloquent about bipartisan efforts but don't really mean it. Wyatt talked the talk, and walked the walk, working especially closely with Democrat Congresswoman Edith Green, to get the job done.

On fisheries issues, he worked to ensure the interests of the Columbia River came first.

Oregon U.S. Sen. Jeff Merkley summed it up best: ''Wendell Wyatt truly made his mark on Oregon.''

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 well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose 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:

We are your typical lower middle class family. My husband has a good job at FedEx where we are blessed to have good insurance benefits and stability; he is on the bottom of the totem pole, however so the wages leave something to be desired. I used to work for a local childcare center where I got free daycare for our 1-year-old son and was able to contribute an income. Last summer we were in a tight but good place in our lives and decided to purchase our first home. It is not much (it is a humble home) but it is ours. We moved in a week before Christmas and though things were very tight we were still doing ''ok''. We got pregnant again in January and were very excited. After all we were making it. Then in March I lost my job and the economy really started to hit us hard. Our tax returns were spent getting my car fixed, and our incentive package paid the mortgage and some bills. We were thankful that that money was there when we needed it but it was not spent as the government intended. We applied for public assistance while I looked for work but found out that we overqualify by only $60 a month. This was frustrating considering most of the people in the waiting room were not here on a legal basis but their children (born in the U.S.) have right to the same assistance I was applying for. They pay no taxes because they are not here legally and are not required to report their income so of course they qualify and the funny thing is that I saw several drive away in nicer cars than even my parents own. I take in a child or two into our home to bring in some income because I do not have a degree and cannot find a job that pays more than daycare costs.

On to gas prices: I drive a Ford Focus, an affordable economical car, and my hubby has his old F–150, which is one of the only assets we actually own. We do not drive big fancy cars that take hundreds of dollars to fill up. My focus cost $43 dollars last time I filled up (last Monday night) and my hubby's truck costs around $65–$70. That may not be a lot to you or anyone with a better job than we, but it is a lot more than we paid last year at this time and it is almost double to fill up my car from what it was when we got married (two years ago in October). Honestly, Senator, we pray our way through every month. It is an honest miracle that we still have our home and that we have made our mortgage for the last 4 months. My husband works 12-hour days so the only logical solution was for me to look for a second job. It took a while given that no one wants to hire a lady who is 6 months pregnant. But I am blessed to have found a job at Cracker Barrel being a part-time waitress and working when my husband gets home to take our son and, with the help of family, we make it work. As you can imagine, it does not pay much ($3.35/hour and then tips). I hate this arrangement, and I have not been working there long enough to see the benefits of having two jobs but I keep thinking that if I just keep at it then maybe we can get caught up and maybe even save enough money to pay the mortgage when I go on maternity leave in October. This is a long shot.

If gas prices (among other things) were lower it would help alleviate some of the strain on our family. The cost of food has gone up, though, too. If both of those things could be what they were, I may not have to work two jobs never seeing my husband and worrying about if I am going to do something bad to my unborn child by driving my body so hard. Even if it were only gas that went down, we might be able to swing it with just one job once we get caught up. Anything would help us at this point. I work any odd jobs I can find in addition my others. I went and counted votes when the elections took place in May and I made $40, not much but it adds up if you save it! I know we are not as bad off as a lot of other people but we are not doing as well as we let people think either. Who wants to tell their friends and family that they are on the verge of losing everything? We are walking a tight scary line and if we fall off we are screwed. We just keep praying and working hard and so far God has not let us down. I know he will not but I do not know what his definition of ok is either. Maybe you could be the blessing we have been praying for, a small piece of a very big problem but like I said even a little bit can help a lot.

Thank you for your time,

KRISTI, *Boise.*

I travel about 20 miles each direction to work. It is really hurting me financially to continue paying these gas prices, but what am I to do? Quit my job? Try to sell my house so I can move closer to work? At this time I am going to continue to commute and reluctantly put my trust in my government to fix the problem. I am very skeptical that you folks will do anything about it because it seems like the government is more concerned about investigating professional sports and finger pointing about who is to blame for our nation's problems. As a citizen of Idaho and of the United States of America, I can tell you that I really do not care if our nation's problems are a result of Democrats, Republicans, or President Bush. Somebody has to act like a responsible adult, and the American public is waiting to see if our leaders are going to help us. Do you know what it is like to go to the gas station and see the dollar amount on the pump scroll so fast that your head spins?

My idea to alleviate our oil problems is to drill in the United States in those areas we know to contain oil. Why not? Who are we saving it for? How many jobs would be created if we were to drill on our own soil? Do not you think that creation of those jobs just might help our economy, as well as diminish our reliance on foreign countries for oil?

I appreciate the opportunity to share my story and ideas. Thank you, Senator Crapo. You seem to be the one that is stepping up.

MARK, *Nampa.*

In response to your email letter I would like to say that this country must do all of the things you mentioned such as developing our domestic oil and refining capacity; nuclear energy; clean coal; wind; solar; hydroelectric and hamsters on spinning wheels if that is what it takes. However, in order to realistically achieve these goals we must first deal with those forces that have been the stumbling block for many years; the environmentalists and their lackeys.

Now is the time to expose these people and their extremist hand-wringing positions for what they are. No reasonable person wants to pollute the air and/or water, but observe the ''sky is falling'' mentality when the Alaska pipeline was proposed. Every conceivable environmental catastrophe was predicted by the environmental lobby. Unfortunately for them, none of it happened. In fact, wildlife flourished after the pipeline went in and there has been no environmental degradation. The time is right to put on the fore court press against these people. Do it; do it today; and do it boldly and courageously. I look forward to reading the headlines in the newspaper to the affect ''Senator Crapo shouts the truth from the Capitol Rotunda''.

MIKE, *Coeur d'Alene.*

Finally a politician that is listening to the people. Now I know why I voted for you. The first few emails on this site are far more astute in presenting their views than I, but I think we should finally ignore the environmentalists and drill ASAP. The very act of starting to drill would probably bring down oil prices. Thanks for listening to your citizens in Idaho.

AUDEANE COX.

My initial reaction to the request for response was that it would be a waste of time. I am very frustrated with the ineffectiveness of Congress. The [partisan] in-fighting seems to be more important than the welfare of the Nation. I wish I could believe that the Senator would actually see/read the responses sent to him instead of just a compilation of data, but I do not.

In response to your request: One solution to saving gas, which would only be a small savings per vehicle but huge nationwide, would be to better manage the stoplights in every town and city. During the times of day and/or at locations where there is light traffic, the stoplights could be set such that the busiest street would get a flashing yellow caution signal and the minor street would have a flashing red stop/go signal. Each intersection would have to be evaluated separately for peak loads versus times of day. The largest impact would be during the night time hours. Not only would this save gas, it would save wear and tear on the vehicles—especially the brakes. Major intersections should be unaffected, day or night. What I have suggested would have a minimal cost—only manpower, to re-set the timers in the control boxes. Another possibility, which would be costly, would be to change-out the stoplight controllers to the type that senses traffic and only change the signal as needed. But either way, having to sit at a red light when there is zero cross traffic is foolish, especially when there is an easy solution.

A second topic that is energy-related is the ethanol craze. Too many people are getting too caught-up in the ''green'' philosophy, and not enough people are looking at the real costs of what they are promoting. You are taking food off of people's tables just to put it into fuel tanks. It costs every bit as much to process corn into gas as crude costs, there is no savings at the pump and the price of food at the grocer's is skyrocketing. This is a joke at this time! If the use of wheat

straw, corn stalks, hay, etc. (i.e. by-products), for ethanol production can be perfected, then you would have something worthwhile.

Further, the request also asked for a brief statement as to how the energy problem was affecting people. I am somewhat past the age that I expected/wanted to retire. But with the problems with the stock market, banking, mortgages, inflation (principally due to energy policies—or lack of same), etc., I am reluctant to go into retirement. Congress could help many retirees if they would rescind the income tax on Social Security. One of the assurances when Social Security was implemented was that it would not be taxed.

DON.

I thank you for the opportunity to share my thoughts. Next to the air we breathe and the water we drink, energy is tied to everything in life we do. Our entire economy is centered on affordable energy. As energy increases in cost (far too fast to be able to adjust to) everything else does as well since it is energy that is used for production, delivery, and services. As a nation, we cannot be held hostage to a dependency on other countries who hold major energy reserves that they are willing to exploit and yet keep the majority of their citizens uneducated and living in the stone ages. These foreign energy-controlling countries know that the American way of life and our infrastructure and economy is based on energy and will continue to use energy to gain control over our domestic and foreign politics. We as Americans must not allow ourselves to be dependent on foreign energy sources and not allow ourselves to be held hostage by domestic legal blocks by certain environmental groups who wish to prevent our country from being able to explore and produce our own energy sources. What we need to be able to do is take a step back to the early 60s where John Kennedy was able to spur on an all out effort to put a man on the moon by the end of the decade. We need to approve a measure to take emergency action now to start utilizing our own resources of energy to shift away from foreign dependence and at the same time take major efforts to promote expansion and creation of other resources as alternatives and how to make a gallon of gas go much farther than it does today. We need to stop blocking nuclear power plant creations with years of legal/environmental suits, push for the development of affordable efficient battery cells for electric vehicle conversion. For roughly $5,000 a small car or truck can be converted to use DC electric but current lead acid cells do not hold enough charge for reasonable distance (limited to approximately 40 miles mile per charge) and are limited to lower speeds of 35–45 mph, making impractical for interstate or longer commutes, and lead acid batteries will only handle a limited number of charge and discharge cycles before needing replacement. I am all for and encourage wind and solar alternatives as well. These alternatives need to be backed and supported by state and federal incentives (tax credits to offset some of the costs) to encourage resident and business use and promote demand so that production costs can be reduced. Prizes have been offered privately to developed space vehicles that can takes passengers on joy rides to the edge of space. Our government should be doing the same to encourage development of alternative energy. From a constituent viewpoint, congress and our countries executive administration have been ignoring for too long developing these alternatives. We should have learned from the 1970s implied shortage of oil and effects it had on our economy, but as soon as cheap oil was dumped on the market we became happy and no efforts have been made to move away from foreign dependence on oil. We as a country did this to ourselves and now have to act immediately to solve our energy issues. This was probably more then you were asking for. How I am personally affected by high fuel prices is no different than others. I cannot afford to fly my aircrafts as often as I use to, or drive to my cabin in Garden Valley as often as I like. The pump is painful and it has impacted my desire to make larger purchases. I am remodeling my home instead of looking to move to a new one. If I were to buy new where I would like to buy to have a large home or lot, it would increase my commute and commute expenses. We eat out less and as people who love to travel, we have three time shares that are going to waste because of the rising cost of airfare. So far we can still feed ourselves but as large company expenses for energy goes up, cut backs will be made in other areas such as employee salary and head count. So rising fuel costs is going to be felt everywhere and on everything.

MICHAEL, *Meridian*.

The question seems to be whether or not the United States needs to drill for our own oil. That seems a no brainer to me. I believe we depend on other countries far too much as it is. It is time we started developing our own method of providing energy without the use of foreign oil. There seems to be an argument that drilling our own oil will not help in the short term. That may be right, but we need to start now so that this development can get underway for the future. If not now, when? We are a nation founded on the principal that we can take care of ourselves and do not need others to make our country self-reliant and strong. The time is now to start to drill for our own oil and if need be to build more refineries to develop it into usable forms. I truly believe if our country does not start taking care of its own energy resources, we will be putting ourselves in jeopardy as a strong independent nation.

Personally, I will have enough gas to get to work and back. However, I will no longer have enough to go visit my 3-week-old grandson and my other family who live 200 miles away. I teach school and even though I am at the top of the pay scale I have to live on a very tight budget. I am waiting to see how this gas increase affects the amount of money I have left to eat on. I am afraid the old adage, ''To rob Peter to pay Paul'', will be in use shortly. My whole family helps each other financially. I help my son who has a hard time finding a job that pays more than minimum wage. My sisters help their children who also have minimum wage-paying jobs and our parents help all of us. Now that these prices are so high, we will not be able to help each other and who knows what will happen. One of my sisters and I do not even own our own homes, so we do not have the equity of a home to rely on.

There are many other issues I feel strongly about; demanding countries pay us the money they have borrowed, equal taxation for all Americans, minimum wages, the war in Iraq, etc, but those are issues for other communications

Thanks for asking for our input. I hope this input helps convince legislators that we had better start taking care of our middle and lower classes if this nation is to once again be strong, self-reliant, and independent.

KATHY, *Nampa*.

There are six of us living in our house. The recent hike in electrical which may go up again due to the high price of fuel. It has strapped us big time. We are not keeping up as we once were because my wages aren't going up to compensate for price hikes in food, and services besides the fuel hikes.

I have been vague about actual numbers because of our privacy, but it is still none the less true about not being able to keep up due to everything going up along with the fuel prices, and not the wages. I really do not like government getting involved in this too much. What can we really do as a people to reduce this or better yet stop it?

JIM.

TRIBUTE TO ROBERT AND VIRGINIA HOWRIGAN

Mr. LEAHY. Mr. President, today marks the 60th wedding anniversary of Richard and Virginia Howrigan. I am happy to have the opportunity to congratulate my good friends who have given so much to the State of Vermont.

The Howrigans are one of the best-known families in Franklin County; their family name has been synonymous with successful and conscientious dairy farming for decades. Marcelle and I value our friendship with them.

Over the course of the past 60 years, Robert and Virginia have worked and grown together. They are wonderful parents, hard workers, and have always remained true to their faith.

Mr. President, I ask unanimous consent to have an excerpt from a February 8, 2009, Burlington Free Press article honoring the Howrigans printed in the RECORD.

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

[From the Burlington Free Press, Feb. 8, 2009]

COUPLES SHARE SECRETS OF LOVE, MARRIAGE

(By Sally Pollack)

Flowers, chocolates and candlelight dinners mark Valentine's Day. But what marks marriage, day after day, year by year, decade upon decade? The Burlington Free Press asked four couples who together have been married a combined 240 years what it takes to make a marriage work. We'll let the pros do the talking:

VIRGINIA AND ROBERT HOWRIGAN, FAIRFIELD, 60 YEARS

Virginia and Robert Howrigan will celebrate their 60th anniversary Thursday. They are retired farmers who live in Fairfield. The couple worked together on their dairy farm and raised nine children.

Robert Howrigan will turn 90 in May; Virginia is 80. They met at a soda fountain in a St. Albans drugstore, where Virginia scooped ice cream. For the Howrigans, who were married on Lincoln's birthday, Valentine's Day was never a significant event. ''Mostly we remember Lincoln,'' Virginia said.

Robert milked cows the morning the couple were married at a church in St. Albans. The work went on and on: The Howrigans stopped doing farm chores four years ago. Tolerance, patience and perseverance are central to the marriage's longevity, Virginia said.

''You make the best of what you have and keep going,'' Virginia said. ''You get up in the morning and go with the flow. You know what you've got to do. You don't have to look around for work. There's plenty of it everywhere.'' Robert and Virginia and their children ate all their meals together. Together, the couple talked everything over.

''We were able to keep family together,'' she said. ''All our decisions were joint. We do

our bills together.'' Robert said two things form the cornerstone of his 60-year marriage: Love and understanding.

ADDITIONAL STATEMENTS

REMEMBERING MILLARD FULLER

• Mr. MERKLEY. Mr. President, this week, Millard Fuller, cofounder of Habitat for Humanity, passed away. Millard Fuller dedicated his life to helping families fulfill the dream of homeownership. Fuller was a selfless entrepreneur who left his fruitful career to start a nonprofit organization that used no-interest loans and ''sweat equity'' to give low income families the chance to own their own homes. I can tell you from firsthand experience that Fuller made a huge difference in the lives of thousands of American families.

Millard Fuller's efforts didn't stop at our national borders. Indeed, Habitat for Humanity builds homes in partnership with homeowners in virtually every country on the planet.

Fifteen years ago, I was the executive director for Habitat for Humanity in Portland, OR. Helping build homes for those who couldn't otherwise afford them provides stability and gives families confidence.

I saw in the faces of the Habitat family members how much it meant to own their own homes. These homes were also important to the children. I remember one family with two young daughters who were so excited to be able to have their friends over for the very first time in their lives.

Millard Fuller will be missed, but his legacy and organization will live on. I know that I join hundreds of thousands of families in being so appreciative for everything Fuller has done for so many hardworking Americans and for our country.•

HONORING BANGOR FLORAL COMPANY

• Ms. SNOWE. Mr. President, this Saturday, we celebrate Valentine's Day, when couples across the world take a moment to slow down and show each other their appreciation and love. Along with ''Be My Valentine'' cards and boxes of chocolate, one of the symbols most connected with this special day is a beautiful bouquet of red roses. With that in mind, I rise to recognize a small florist in my home State of Maine that continually provides customers with quality flowers and gifts—and at this time of year, makes Valentine's Day a sweet event.

Bangor Floral Company, founded in 1925, is a historic floral shop located in downtown Bangor. Housed in a converted, turn-of-the-century church, Bangor Floral prides itself on fresh flowers, creative arrangements, and responsive customer service. From red and pastel roses, to bright lilies, chrysanthemums, and snapdragons, Bangor Floral expertly prepares beautiful bouquets for any occasion. Bangor Floral also organizes a variety of fresh fruit baskets and gift baskets that include cookies, candies, stuffed animals, and balloons. To keep his flowers fresh, Phil Frederick, owner of Bangor Floral Company, purchases his flowers locally whenever possible, and does not pass any additional costs onto the customer. Mr. Frederick, a third generation florist, also offers his clients a 50 percent discount off all cut flowers from 4 p.m. to 5 p.m. each afternoon, fashioning this sale a ''happy hour.''

Around Valentine's Day, Mr. Frederick engages in a creative and humorous television and radio advertising campaign for his flowers that residents from across the region will recognize. In his television ad, Mr. Frederick dresses as a doctor and carries a stethoscope, calling himself ''Doctor Valentine.'' The popular ad has run in the Bangor area for several years, bringing smiles to the faces of his customers and increasing Mr. Frederick's sales.

Mr. Frederick is also very committed to the local community. A member of the Bangor Rotary Club, Mr. Frederick gives flowers to fellow Rotarians for their birthdays. He also donates flowers to various organizations across Bangor for fundraising purposes. Mr. Frederick is currently president of the Husson Alumni Board, as well as a board member of the Oncology Support Foundation, which provides resources and information to cancer patients and their families throughout Maine. The latter is a cause near and dear to Mr. Frederick, who is a cancer survivor himself. Additionally, the Bangor Rotary Club has honored Mr. Frederick by naming him a Paul Harris Fellow, as someone who has truly exhibited the creed of ''service above self'' in his everyday life.

In the era of online and telephone-based florists, Bangor Floral Company allows customers the opportunity to see and discuss the proper arrangement, and to truly ''smell the roses.'' My sincerest thanks to Phil Frederick for all of his generous efforts, and my best wishes to everyone at Bangor Floral for a pleasant Valentine's season and a successful year.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 632. An act to encourage, enhance, and integrate Silver Alert plans throughout the United States, to authorize grants for the assistance of organizations to find missing adults, and for other purposes.

H.R. 908. An act to amend the Violent Crime Control and Law Enforcement Act of 1994 to reauthorize the Missing Alzheimer's Disease Patient Alert Program.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 41. Concurrent resolution providing for a joint session of Congress to receive a message from the President.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House: Mr. OBEY, Mr. RANGEL, Mr. WAXMAN, Mr. LEWIS of California, and Mr. CAMP of Michigan.

At 4:07 p.m., a message from the House of Representatives, delivered by Ms. Niland, 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. 47. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 11. To amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 632. An act to encourage, enhance, and integrate Silver Alert plans throughout the United States, to authorize grants for the assistance of organizations to find missing adults, and for other purposes; to the Committee on the Judiciary.

H.R. 908. An act to amend the Violent Crime Control and Law Enforcement Act of

1994 to reauthorize the Missing Alzheimer's Disease Patient Alert Program; to the Committee on the Judiciary.

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–683. A communication from the Director of the Legislative Affairs Division, Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Regional Equity'' (RIN0578–AA44) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–684. A communication from the Director of the Legislative Affairs Division, Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Technical Service Provider Assistance'' (RIN0578–AA48) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–685. A communication from the Director of the Legislative Affairs Division, Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''State Technical Committees'' (RIN0578–AA51) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–686. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''HUD Office of Hearings and Appeals; Conforming Changes To Reflect Office Address and Staff Title Changes, and Notification of Retention of Chief Administrative Law Judge'' (RIN2501–AD46) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–687. A communication from the Deputy Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Interactive Data to Improve Financial Reporting'' (RIN3235–AJ71) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–688. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice'' (16 CFR Parts 3 and 4) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–689. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Revised Jurisdictional Thresholds for Section 8 of the Clayton Act'', received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–690. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Revised Jurisdictional Thresholds for Section 7A of the Clayton Act'', received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–691. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Charges For Certain Disclosures'', received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–692. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Federal Civil Penalties Inflation Adjustment Act'' (16 CFR Part 1) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–693. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Basin, Wyoming'' (MB Docket No. 08-43) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–694. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations; Danville, Kentucky'' (MM Docket No. 08-104) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–695. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations; Montgomery, Alabama'' (MB Docket No. 08-230) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–696. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments'' ((Docket No. 30645)(Amendment No. 3302)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–697. A communication from the Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Miscellaneous Cargo Tank Motor Vehicle and Cylinder Issues; Petitions for Rulemaking'' (RIN2137–AE23) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Alamosa, CO'' ((Docket No. FAA–2008–0982)(Airspace Docket No. 08–ANM–6)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO, AIO, IGO, IVO, and HIO Series Reciprocating Engines, Teledyne Continental Motors (TCM) LTSIO–360–RB and TSIO–360–RB Reciprocating Engines, and Superior Air Parts, Inc. IO-360 Series Reciprocating Engines with certain Precision Airmotive LLC RSA–5 and RSA–10 Series, and Bendix RSA–5 and RSA–10 Series, Fuel Injection Servos'' ((RIN2120–AA64)(Docket No. FAA–2008–0420)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800 and –900 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA2007–28283)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Turbomeca Arriel 2B and 2B1 Turboshaft Engines'' ((RIN2120–AA64)(Docket No. FAA–2008–0935)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) and Model CL–600–2D24 (Regional Jet Series 900) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0540)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0558)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–704. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Polskie Zaklady Lotnicze Spolka zo.o Model PZL M26 01 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0010)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–705. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) Airplanes; CL–600–2D15 (Regional Jet Series 705) Airplanes; and CL–600–2D24 (Regional Jet Series 900) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0625)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–706. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–1083)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–707. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 3 regulations beginning with USCG–2008–0100)'' (RIN1625–AA09) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–708. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Potomac and Anacostia Rivers, Washington, DC, Arlington and Fairfax Counties, VA, and Prince George's County, MD'' ((RIN1625–AA87)(Docket No. USCG–2008–1001)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–709. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Anchorage Area ''A'', Boston Harbor, MA'' ((RIN1625–AA01)(Docket No. USCG–2008–0497)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–710. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulations (including 2 regulations beginning with USCG–2008–0984)'' (RIN1625–AA00) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–711. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Steam Generator Transit, Captain of the Port Zone San Diego; San Diego, California'' ((RIN1625–AA87)(Docket No. USCG–2008–1236)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–712. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Tank Level or Pressure Monitoring Devices on Single-Hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo'' ((RIN1625–AB12)(Docket No. USCG–2001–9046)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–713. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulations (including 2 regulations beginning with USCG–2008–1081)'' (RIN1625–AA00) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–714. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Willamette River, Portland, OR, Schedule Change'' ((RIN1625–AA09)(Docket No. USCG–2008–0721)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–715. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil'' ((RIN1625–AA19)(Docket No. USCG–1998–3417)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–716. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the progress of the Comprehensive Plan report on the Mississippi Coastal Improvements Program; to the Committee on Environment and Public Works.

EC–717. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the progress of the report on Louisiana Coastal Protection and Restoration; to the Committee on Environment and Public Works.

EC–718. A communication from the Acting Chief of Recovery and Delisting, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Reinstatement of Protections for the Gray Wolf in the Western Great Lakes and Northern Rocky Mountains in Compliance with Court Orders'' (RIN1018–AW35) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Environment and Public Works.

EC–719. A communication from the Chief of the Endangered Species Listing Branch, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Reticulated Flatwoods Salamander; Designation of Critical Habitat for Frosted Flatwoods Salamander and Reticulated Flatwoods Salamander'' (RIN1018–AU85) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Environment and Public Works.

EC–720. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the interdiction of aircraft engaged in illicit drug trafficking; to the Committee on Foreign Relations.

EC–721. A communication from the Chairman, U.S. International Trade Commission, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of April 1, 2008, through September 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–722. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–663, ''Real Property Tax Benefits Revision Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–723. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–664, ''Emergency Care for Sexual Assault Victims Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–724. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–665, ''Grocery Store Sidewalk Cafe in the Public Space Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–725. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–666, ''Eckington One Residential Project Economic Development Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–726. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–667, ''Approval of the Verizon Washington, DC Inc. Cable Television System Franchise Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–727. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–668, ''Mortgage Lender and Broker Temporary Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–728. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–685, ''Walker Jones/Northwest One Unity Health Center Tax Abatement Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–729. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–686, ''Bicycle Safety Enhancement Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–730. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–687, ''Technical Amendments Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–731. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–688, ''Conversion Fee Clarification and Technical Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–732. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–689, ''St. Martin's Apartments Tax Exemption Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–733. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–690, ''Inoperable Pistol Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–734. A communication from the Chairman, Council of the District of Columbia,

transmitting, pursuant to law, a report on D.C. Act 17–691, ''Emergency Medical Services Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–735. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–692, ''Domestic Partnership Police and Fire Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–736. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–693, ''Gateway Market Center and Residences Real Property Tax Exemption Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–737. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–694, ''Equitable Street Time Credit Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–738. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–695, ''Limitation on Borrowing and Establishment of the Operating Cash Reserve Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–739. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–696, ''Alcoholic Beverage Enforcement Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–740. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–697, ''Office of Public Education Facilities Modernization Clarification Temporary Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–741. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–698, ''AED Installation for Safe Recreation and Exercise Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–742. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–699, ''Housing Waiting List Elimination Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–743. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–700, ''Housing Production Trust Fund Stabilization Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–744. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–701, ''Housing Regulation Administration Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–745. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–702, ''Timely Transmission of Compensation Agreements Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–746. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–703, ''Intrafamily Offenses Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–747. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–704, ''Medical Insurance Empowerment Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–748. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–705, ''Water and Sewer Authority Equitable Ratemaking Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–749. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–706, ''Comprehensive Stormwater Management Enhancement Amendment Act of 2008'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–750. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17–707, ''Washington, D.C. Fort Chaplin Park South Congregation of Jehovah's Witnesses, Inc. Real Property Tax Relief Temporary Act of 2009'' received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–751. A communication from the Principal Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''2007 Annual Report of the National Institute of Justice''; to the Committee on the Judiciary.

EC–752. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants'' (Notice 2009–03) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Rules and Administration.

EC–753. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Escorted Vessels in Captain of the Port Zone Jacksonville, Florida'' ((RIN1625–AA87)(Docket No. USCG–2008–0203)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 31. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. Res. 32. An original resolution authorizing expenditures by the Committee on Homeland Security and Governmental Affairs.

By Mr. AKAKA, from the Committee on Veterans' Affairs, without amendment:

S. Res. 33. An original resolution authorizing expenditures by the Committee on Veterans' Affairs.

By Mrs. FEINSTEIN, from the Select Committee on Intelligence, without amendment:

S. Res. 34. An original resolution authorizing expenditures by the Select Committee on Intelligence.

By Mr. REID (for Mr. KENNEDY), from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. Res. 36. An original resolution authorizing expenditures by the Committee on Health, Education, Labor, and Pensions.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 234. A bill to designate the facility of the United States Postal Service located at 2105 East Cook Street in Springfield, Illinois, as the ''Colonel John H. Wilson, Jr. Post Office Building''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DODD for the Committee on Banking, Housing, and Urban Affairs.

*Austan Dean Goolsbee, of Illinois, to be a Member of the Council of Economic Advisers.

*Cecilia Elena Rouse, of California, to be Member of the Council of Economic Advisers.

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*Hilda L. Solis, of California, to be Secretary of Labor.

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*Leon E. Panetta, of California, to be Director of the Central Intelligence Agency.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. KYL (for himself and Mr. MCCAIN):

S. 409. A bill to secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral

resources by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself, Ms. COLLINS, Mr. CASEY, Mr. BAYH, Mr. JOHNSON, Ms. LANDRIEU, Mr. ROCKEFELLER, Ms. SNOWE, Mr. KERRY, and Ms. STABENOW):

S. 410. A bill to amend part E of title IV of the Social Security Act to ensure States follow best policies and practices for supporting and retaining foster parents and to require the Secretary of Health and Human Services to award grants to States to improve the empowerment, leadership, support, training, recruitment, and retention of foster care, kinship care, and adoptive parents; to the Committee on Finance.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 411. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the City of St. George, Utah for airport purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE:

S. 412. A bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BURR (for himself and Mr. BINGAMAN):

S. 413. A bill to establish a grant program to improve high school graduation rates and prepare students for college and work; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. LEVIN, Mr. MENENDEZ, Mr. REED, Mr. AKAKA, Mr. SCHUMER, Mr. TESTER, Mr. BROWN, Mr. MERKLEY, Mr. KERRY, Mr. LEAHY, Mr. DURBIN, Mr. HARKIN, Mrs. MCCASKILL, Mr. WHITEHOUSE, and Mr. CASEY):

S. 414. A bill to amend the Consumer Credit Protection Act, to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN:

S. 415. A bill for the relief of Maha Dakar; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. BINGAMAN, Mrs. BOXER, Mr. BROWN, Mr. CARDIN, Mr. CASEY, Mr. DURBIN, Mr. FEINGOLD, Mr. KENNEDY, Ms. MIKULSKI, Mr. MENENDEZ, Mr. MERKLEY, Mr. SANDERS, Ms. STABENOW, and Mr. WHITEHOUSE):

S. 416. A bill to limit the use of cluster munitions; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. FEINGOLD, Mr. WHITEHOUSE, and Mrs. MCCASKILL):

S. 417. A bill to enact a safe, fair, and responsible state secrets privilege Act; to the Committee on the Judiciary.

By Ms. KLOBUCHAR (for herself and Mr. HATCH):

S. 418. A bill to require secondary metal recycling agents to keep records of their transactions in order to deter individuals and enterprises engaged in the theft and interstate sale of stolen secondary metal, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BINGAMAN:

S. Res. 31. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; from the Committee on Energy and Natural Resources; to the Committee on Rules and Administration.

By Mr. LIEBERMAN:

S. Res. 32. An original resolution authorizing expenditures by the Committee on Homeland Security and Governmental Affairs; from the Committee on Homeland Security and Governmental Affairs; to the Committee on Rules and Administration.

By Mr. AKAKA:

S. Res. 33. An original resolution authorizing expenditures by the Committee on Veterans' Affairs; from the Committee on Veterans' Affairs; to the Committee on Rules and Administration.

By Mrs. FEINSTEIN:

S. Res. 34. An original resolution authorizing expenditures by the Select Committee on Intelligence; from the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. VOINOVICH (for himself and Mr. BROWN):

S. Res. 35. A resolution honoring Miami University for its 200 years of commitment to public higher education; considered and agreed to.

By Mr. REID (for Mr. KENNEDY):

S. Res. 36. An original resolution authorizing expenditures by the Committee on Health, Education, Labor, and Pensions; from the Committee on Health, Education, Labor, and Pensions; to the Committee on Rules and Administration.

By Mr. LAUTENBERG:

S. Res. 37. A bill calling on officials of the Government of Brazil and the federal courts of Brazil to comply with the requirements of the Convention on the Civil Aspects of International Child Abduction and to assist in the safe return of Sean Goldman to his father, David Goldman; to the Committee on Foreign Relations.

By Ms. STABENOW (for herself, Ms. MIKULSKI, Mrs. MURRAY, and Mr. SANDERS):

S. Con. Res. 6. A concurrent resolution expressing the sense of Congress that national health care reform should ensure that the health care needs of women and of all individuals in the United States are met; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 34

At the request of Mr. DEMINT, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 34, a bill to prevent the Federal Communications Commission from repromulgating the fairness doctrine.

S. 160

At the request of Mr. LIEBERMAN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 160, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

S. 211

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 298

At the request of Mr. ISAKSON, the names of the Senator from Florida (Mr. NELSON) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 298, a bill to establish a Financial Markets Commission, and for other purposes.

S. 331

At the request of Mr. SCHUMER, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 331, a bill to increase the number of Federal law enforcement officials investigating and prosecuting financial fraud.

S. 371

At the request of Mr. THUNE, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 371, a bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State.

S. 374

At the request of Mr. DEMINT, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), the Senator from Idaho (Mr. CRAPO) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 374, a bill to amend the Consumer Product Safety Act to provide regulatory relief to small and family-owned businesses.

S. 405

At the request of Mr. LEAHY, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 405, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S.J. RES. 1

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting the number of terms that a Member of Congress may serve.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. MCCAIN):

S. 409. A bill to secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an

exchange of Federal and non-Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 409

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 ''Southeast Arizona Land Exchange and Conservation Act of 2009''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to authorize, direct, facilitate, and expedite the conveyance and exchange of land between the United States and Resolution Copper;

(2) to provide for the permanent protection of cultural resources and uses of the Apache Leap escarpment located near the town of Superior, Arizona; and

(3) to secure Federal ownership and protection of land with significant natural, scenic, recreational, water, riparian, cultural and other resources.

SEC. 3. DEFINITIONS.

In this Act:

(1) APACHE LEAP.—The term ''Apache Leap'' means the approximately 822 acres of land (including the approximately 110 acres of land of Resolution Copper described in section 4(c)(1)(G)), as depicted on the map entitled ''Apache Leap'' and dated January 2009.

(2) FEDERAL LAND.—The term ''Federal land'' means the approximately 2,406 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Federal Parcel–Oak Flat'' and dated January 2009.

(3) NON-FEDERAL LAND.—The term ''non-Federal land'' means each parcel of land described in section 4(c).

(4) OAK FLAT CAMPGROUND.—The term ''Oak Flat Campground'' means the campground that is—

(A) comprised of approximately 16 developed campsites and adjacent acreage at a total of approximately 50 acres; and

(B) depicted on the map entitled ''Oak Flat Campground'' and dated January 2009.

(5) OAK FLAT WITHDRAWAL AREA.—The term ''Oak Flat Withdrawal Area'' means the approximately 760 acres of land depicted on the map entitled ''Oak Flat Withdrawal Area'' and dated January 2009.

(6) RESOLUTION COPPER.—The term ''Resolution Copper'' means—

(A) Resolution Copper Mining, LLC, a Delaware limited liability company; and

(B) any successor, assign, affiliate, member, or joint venturer of Resolution Copper Mining, LLC.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(8) SECRETARY CONCERNED.—The term ''Secretary concerned'' means the Secretary of Agriculture or the Secretary of the Interior, as applicable.

(9) TOWN.—The term ''Town'' means the Town of Superior, Arizona, an incorporated municipality.

SEC. 4. LAND CONVEYANCES AND EXCHANGES.

(a) PURPOSES.—The purposes of the land conveyances and exchanges under this section are—

(1) to secure Federal ownership and protection of significant natural, scenic, and recreational resources; and

(2) to facilitate efficient extraction of mineral resources.

(b) OFFER BY RESOLUTION COPPER.—

(1) IN GENERAL.—Subject to section 9(b)(1), if Resolution Copper submits to the Secretary of Agriculture a written offer, in accordance with paragraph (2), to convey to the United States all right, title, and interest of Resolution Copper in and to the non-Federal land, the Secretary shall—

(A) accept the offer; and

(B) convey to Resolution Copper all right, title, and interest of the United States in and to the Federal land, subject to—

(i) section 10(c); and

(ii) any valid existing right or title reservation, easement, or other exception required by law or agreed to by the Secretary concerned and Resolution Copper.

(2) REQUIREMENTS.—Title to any non-Federal land conveyed by Resolution Copper to the United States under paragraph (1) shall—

(A) be in a form that is acceptable to the Secretary concerned; and

(B) conform to the title approval standards of the Attorney General of the United States applicable to land acquisitions by the Federal Government.

(c) RESOLUTION COPPER LAND EXCHANGE.—On receipt of title to the Federal land under subsection (b)(1)(B), Resolution Copper shall simultaneously convey—

(1) to the Secretary of Agriculture, all right, title, and interest that the Secretary determines to be acceptable in and to—

(A) the approximately 147 acres of land located in Gila County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Turkey Creek'' and dated January 2009;

(B) the approximately 148 acres of land located in Yavapai County Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Tangle Creek'' and dated January 2009;

(C) the approximately 149 acres of land located in Maricopa County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Cave Creek'' and dated January 2009;

(D) the approximately 88 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–J-I Ranch'' and dated January 2009;

(E) the approximately 640 acres of land located in Coconino County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–East Clear Creek'' and dated January 2009;

(F) the approximately 95 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–The Pond'' and dated January 2009; and

(G) subject to the retained rights under subsection (d)(2), the approximately 110 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Apache Leap South End'' and dated January 2009; and

(2) to the Secretary of the Interior, all right, title, and interest that the Secretary of the Interior determines to be acceptable in and to—

(A) the approximately 3,073 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Lower San Pedro River'' and dated January 2009;

(B) the approximately 160 acres of land located in Gila and Pinal Counties, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Dripping Springs'' and dated January 2009; and

(C) the approximately 956 acres of land located in Santa Cruz County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Appleton Ranch'' and dated January 2009.

(d) ADDITIONAL CONSIDERATION TO UNITED STATES.—

(1) SURRENDER OF RIGHTS.—Subject to paragraph (2), in addition to the non-Federal land to be conveyed to the United States under subsection (c), and as a condition of the land exchange under this section, Resolution Copper shall surrender to the United States, without compensation, the rights held by Resolution Copper under mining and other laws of the United States—

(A) to commercially extract minerals under—

(i) Apache Leap; or

(ii) the parcel identified in subsection (c)(1)(F); and

(B) to disturb the surface of Apache Leap, except with respect to such fences, signs, monitoring wells, and other devices, instruments, or improvements as are necessary to monitor the public health and safety or achieve other appropriate administrative purposes, as determined by the Secretary, in consultation with Resolution Copper.

(2) EXPLORATION ACTIVITIES.—Nothing in this Act prohibits Resolution Copper from using any existing mining claim held by Resolution Copper on Apache Leap, or from retaining any right held by Resolution Copper to the parcel described in subsection (c)(1)(G), to carry out any underground activities under Apache Leap in a manner that the Secretary determines will not adversely impact the surface of Apache Leap (including drilling or locating any tunnels, shafts, or other facilities relating to mining, monitoring, or collecting geological or hydrological information) that do not involve commercial mineral extraction under Apache Leap.

(e) USE OF EQUALIZATION PAYMENT.—

(1) PAYMENT.—Resolution Copper shall pay into the Federal Land Disposal Account established by section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)) (or any successor account) any cash equalization funds owed by Resolution Copper to the United States under section 7(b)(1), to remain available until expended, without further appropriation, to the Secretary and the Secretary of the Interior, as the Secretaries jointly determine to be appropriate, for—

(A) the acquisition from willing sellers of land or interests in land within the hydrographic boundary of the San Pedro River and tributaries in the State of Arizona; and

(B) the management and protection of endangered species and other sensitive environmental values and land within the San Pedro Riparian National Conservation Area established by section 101(a) of the Arizona-Idaho Conservation Act of 1988 (16 U.S.C. 460xx(a)) (including any additions to the area), including management under any cooperative management agreement entered into by the Secretary of the Interior and a State or local agency under section 103(c) of that Act (16 U.S.C. 460xx–2(c)).

(2) PERIOD OF USE.—To the maximum extent feasible, the amount paid into the Federal Land Disposal Account by Resolution Copper under paragraph (1) shall be used by

the Secretary and the Secretary of the Interior during the 2-year period beginning on the date of payment.

(3) COOPERATIVE MANAGEMENT AGREEMENTS.—The Secretary of the Interior may enter into such cooperative management agreements with qualified organizations (as defined in section 170(h) of the Internal Revenue Code of 1986) as the Secretary of the Interior determines to be appropriate to administer portions of the San Pedro Riparian National Conservation Area.

SEC. 5. TIMING AND PROCESSING OF EXCHANGE.

(a) SENSE OF CONGRESS REGARDING TIMING OF EXCHANGE.—It is the sense of Congress that the land exchange directed by section 4 should be consummated by not later than 1 year after the date of enactment of this Act.

(b) EXCHANGE PROCESSING.—Before the date of consummation of the exchange under section 4, the Secretary concerned shall complete any necessary land surveys and required preexchange clearances, reviews, mitigation activities, and approvals relating to—

(1) threatened or endangered species;

(2) cultural or historic resources;

(3) wetland or floodplains; or

(4) hazardous materials.

(c) POST-EXCHANGE PROCESSING.—Before commencing production in commercial quantities of any valuable mineral from the Federal land conveyed to Resolution Copper under section 4(b)(1)(B) (except for any such production from any exploration and mine development shafts, adits, and tunnels needed to determine feasibility and pilot plant testing of commercial production or to access the ore body and tailings deposition areas), the Secretary shall publish an environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4322(2)(C)) regarding any Federal agency action carried out relating to the commercial production, including an analysis of the impacts of the production.

(d) OAK FLAT WITHDRAWAL AREA RESTRICTION.—

(1) MINERAL EXPLORATION.—To ensure the collection and consideration of adequate information to analyze possible commercial production of minerals by Resolution Copper from the Oak Flat Withdrawal Area, notwithstanding any other provision of law, Resolution Copper may carry out mineral exploration activities under the Oak Flat Withdrawal Area during the period beginning on the date of enactment of this Act and ending on the date of conveyance of the Oak Flat Withdrawal Area to Resolution Copper under section 4(b)(1)(B) by directional drilling or any other method that will not disturb the surface of the land.

(2) SENSE OF CONGRESS REGARDING PERMIT.—It is the sense of Congress that the Secretary should issue to Resolution Copper a permit to conduct appropriate directional drilling or other nonsurface-disturbing exploration in the Oak Flat Withdrawal Area as soon as practicable after the date of enactment of this Act.

(e) EXCHANGE AND POST-EXCHANGE COSTS.—In accordance with sections 254.4 and 254.7 of title 36, Code of Federal Regulations (or successor regulations), Resolution Copper shall assume responsibility for—

(1) hiring such contractors as are necessary for carrying out any exchange or conveyance of land under this Act; and

(2) paying, without compensation under section 254.7 of title 36, Code of Federal Regulations (or a successor regulation)—

(A) the costs of any appraisal relating to an exchange or conveyance under this Act, including any reasonable reimbursements to the Secretary on request of the Secretary for the cost of reviewing and approving an appraisal;

(B) the costs of any clearances, reviews, mitigation activities, and approvals under subsection (b), including any necessary land surveys conducted by the Bureau of Land Management Cadastral Survey program;

(C) the costs of achieving compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under subsection (c); and

(D) any other cost agreed to by Resolution Copper and the Secretary concerned.

(f) CONTRACTOR WORK AND APPROVALS.—

(1) IN GENERAL.—Any work relating to the exchange or conveyance of land under this Act that is performed by a contractor shall be subject to the mutual agreement of the Secretary concerned and Resolution Copper, including any agreement with respect to—

(A) the selection of the contractor; and

(B) the scope of work performed by the contractor.

(2) REVIEW AND APPROVAL.—Any required review and approval of work by a contractor shall be performed by the Secretary concerned, in accordance with applicable law (including regulations).

(3) LEAD ACTOR AGREEMENT.—The Secretary of Agriculture and the Secretary of the Interior may mutually agree to designate the Secretary of Agriculture as the lead actor for any action under this subsection.

SEC. 6. CONVEYANCE OF LAND TO TOWN.

(a) CONVEYANCE REQUIREMENTS.—

(1) IN GENERAL.—On receipt of a request from the Town described in paragraph (2), the Secretary shall convey to the Town each parcel requested.

(2) DESCRIPTION OF REQUEST.—A request referred to in paragraph (1) is a request by the Town—

(A) for the conveyance of 1 or more of the parcels identified in subsection (b); and

(B) that is submitted to the Secretary by not later than 90 days after the date of consummation of the land exchange under section 4.

(3) PRICE.—The Town shall pay to the Secretary a price equal to the market value of any land conveyed under this subsection, as appraised under section 7, less the amount of any credit under section 7(b)(3).

(b) IDENTIFICATION OF PARCELS.—The Town may request conveyance of any of—

(1) the approximately 30 acres of land located in Pinal County, Arizona, occupied on the date of enactment of this Act by the Fairview Cemetery and depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Federal Parcel–Fairview Cemetery'' and dated January 2009;

(2) the reversionary interest, and any reserved mineral interest, of the United States in the approximately 265 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Federal Reversionary Interest–Superior Airport'' and dated January 2009; and

(3) all or any portion of the approximately 250 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Federal Parcel–Superior Airport Contiguous Parcels'' and dated January 2009.

(c) CONDITION OF CONVEYANCE.—A conveyance of land under this section shall be carried out in a manner that provides the United States manageable boundaries on any parcel retained by the Secretary, to the maximum extent practicable.

SEC. 7. VALUATION OF LAND EXCHANGED OR CONVEYED.

(a) EXCHANGE VALUATION.—

(1) IN GENERAL.—The value of the land to be exchanged under section 4 or conveyed to the Town under section 6 shall be determined by the Secretary through concurrent appraisals conducted in accordance with paragraph (2).

(2) APPRAISALS.—

(A) IN GENERAL.—An appraisal under this section shall be—

(i) performed by an appraiser mutually agreed to by the Secretary and Resolution Copper;

(ii) performed in accordance with—

(I) the Uniform Appraisal Standards for Federal Land Acquisitions (Department of Justice, 5th Edition, December 20, 2000);

(II) the Uniform Standards of Professional Appraisal Practice; and

(III) Forest Service appraisal instructions; and

(iii) submitted to the Secretary for review and approval.

(B) REAPPRAISALS AND UPDATED APPRAISED VALUES.—After the final appraised value of a parcel is determined and approved under subparagraph (A), the Secretary shall not be required to reappraise or update the final appraised value—

(i) for a period of 3 years after the approval by the Secretary of the final appraised value under subparagraph (A)(iii); or

(ii) at all, in accordance with section 254.14 of title 36, Code of Federal Regulations (or a successor regulation), after an exchange agreement is entered into by Resolution Copper and the Secretary.

(C) PUBLIC REVIEW.—Before consummating the land exchange under section 4, the Secretary shall make available for public review a summary of the appraisals of the land to be exchanged.

(3) FAILURE TO AGREE.—If the Secretary and Resolution Copper fail to agree on the value of a parcel to be exchanged, the final value of the parcel shall be determined in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(4) FEDERAL LAND APPRAISAL.—

(A) IN GENERAL.—The Federal land shall be appraised in accordance with the standards and instructions referred to in paragraph (2)(A)(ii) and other applicable requirements of this section.

(B) TREATMENT AS UNENCUMBERED.—The value of the Federal land outside the Oak Flat Withdrawal Area shall be determined as if the land is unencumbered by any unpatented mining claims of Resolution Copper.

(C) EFFECT.—Nothing in this Act affects the validity of any unpatented mining claim or right of Resolution Copper.

(D) ADDITIONAL APPRAISAL INFORMATION.—To provide information necessary to calculate a value adjustment payment for purposes of section 12, the appraiser under this paragraph shall include in the appraisal report a detailed royalty income approach analysis, in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, of the market value of the Federal land, even if the royalty income approach analysis is not the appraisal approach relied on by the appraiser to determine the final market value of the Federal land.

(b) EQUALIZATION OF VALUE.—

(1) SURPLUS OF FEDERAL LAND VALUE.—

(A) IN GENERAL.—If the final appraised value of the Federal land exceeds the value of the non-Federal land involved in the exchange under section 4, Resolution Copper shall make a cash equalization payment into the Federal Land Disposal Account (as provided in subsection (e)) to equalize the values of the Federal land and non-Federal land.

(B) AMOUNT OF PAYMENT.—Notwithstanding section 206(b) of the Federal Land Policy and

Management Act of 1976 (43 U.S.C. 1716(b)), the United States may accept a cash equalization payment under subparagraph (A) in an amount that is greater than 25 percent of the value of the Federal land.

(2) SURPLUS OF NON-FEDERAL LAND VALUE.—If the final appraised value of the non-Federal land exceeds the value of the Federal land involved in the exchange under section 4—

(A) the United States shall not make a payment to Resolution Copper to equalize the values of the land; and

(B) the surplus value of the non-Federal land shall be considered to be a donation by Resolution Copper to the United States.

(3) PAYMENT FOR LAND CONVEYED TO TOWN.—

(A) IN GENERAL.—The Town shall pay the Secretary market value for any land acquired by the Town from the Secretary under section 6, as determined by the Secretary through an appraisal conducted in accordance with subsection (a)(2).

(B) CREDIT.—If the final appraised value of the non-Federal land exceeds the value of the Federal land in the exchange under section 4, the obligation of the Town to pay the United States under subparagraph (A) shall be reduced by an amount equal to the excess value of the non-Federal land conveyed to the United States.

(4) DISPOSITION AND USE OF PROCEEDS.—

(A) CASH EQUALIZATION PAYMENTS.—Any cash equalization payment under paragraph (1)(A) shall be deposited, without further appropriation, in the Federal Land Disposal Account for use in accordance with section 4(e).

(B) PAYMENT FOR LAND CONVEYED TO TOWN.—Any payment received by the Secretary from the Town under paragraph (3)(A) shall be—

(i) deposited in the fund established under Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a); and

(ii) made available to the Secretary, without further appropriation, for the acquisition of land for addition to the National Forest System in the State of Arizona.

SEC. 8. APACHE LEAP PROTECTION AND MANAGEMENT.

(a) APACHE LEAP PROTECTION AND MANAGEMENT.—

(1) IN GENERAL.—To permanently protect the cultural, historic, educational, and natural resource values of Apache Leap, effective beginning on the date of enactment of this Act, the Secretary shall—

(A) manage Apache Leap in accordance with the laws (including regulations) applicable to the National Forest System; and

(B) place special emphasis on preserving the natural character of Apache Leap.

(2) WITHDRAWAL.—Subject to the valid existing rights of Resolution Copper under section 4(d)(2), effective beginning on the date of enactment of this Act, Apache Leap shall be permanently withdrawn from all forms of entry and appropriation under—

(A) the public land laws (including the mining and mineral leasing laws); and

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(b) ADDITIONAL PROTECTIONS, ANALYSIS, AND PLAN.—

(1) MANAGEMENT PLAN.—Not later than 4 years after the date of enactment of this Act, the Secretary, in consultation with the Town, Resolution Copper, the Yavapai and Apache Indian tribes, and other interested members of the public, shall solicit public comment regarding, and initiate implementation of, a management plan for Apache Leap.

(2) PLANNING CONSIDERATIONS.—The plan described in paragraph (1) shall examine, among other matters, whether Apache Leap should be managed to establish—

(A) additional cultural and historical resource protections or measures, including permanent or seasonal closures of any portion of Apache Leap to protect cultural or archeological resources;

(B) additional or alternative public access routes, trails, and trailheads to Apache Leap; or

(C) additional opportunities (including appropriate access) for rock climbing, with special emphasis on improved rock climbing access to Apache Leap from the west.

(c) MINING ACTIVITIES.—Nothing in this section imposes any restriction on any exploration or mining activity carried out by Resolution Copper outside of Apache Leap after the date of enactment of this Act.

SEC. 9. INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LAND.

(a) LAND ACQUIRED BY SECRETARY.—

(1) IN GENERAL.—Land acquired by the Secretary under this Act shall—

(A) become part of the National Forest within which the land is located; and

(B) be administered in accordance with the laws (including regulations) applicable to the National Forest System.

(2) BOUNDARIES.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 et seq.), the boundaries of a National Forest in which land acquired by the Secretary is located shall be deemed to be the boundaries of that forest as in existence on January 1, 1965.

(3) MANAGEMENT OF J-I RANCH.—

(A) IN GENERAL.—On the date on which the Secretary acquires the J-I Ranch parcel described in section 4(c)(1)(D), the Secretary shall manage the land to allow Yavapai and Apache Indian tribes—

(i) to access the land; and

(ii) to undertake traditional activities relating to the gathering of acorns.

(B) AUTHORITY OF SECRETARY.—On receipt of a request from the Yavapai or Apache Indian tribe, the Secretary may temporarily or seasonally close to the public any portion of the J-I Ranch during the period in which the Yavapai or Apache Indian tribe carries out any activity described in subparagraph (A)(ii).

(b) ROCK CLIMBING.—

(1) IN GENERAL.—Before consummating the land exchange under section 4, Resolution Copper shall pay to the Secretary $1,250,000.

(2) USE OF FUNDS.—The Secretary shall use the amount described in paragraph (1), without further appropriation, to construct or improve road access, turnouts, trails, camping, parking areas, or other facilities to promote and enhance rock climbing, bouldering, and such other outdoor recreational opportunities as the Secretary determines to be appropriate—

(A) in the general area north of Arizona State Highway 60 encompassing the parcel described in section 4(c)(1)(F) and adjacent National Forest land to the north of that parcel (commonly known as the ''upper Pond area''); or

(B) in the areas commonly known as ''Inconceivables'' and ''Chill Hill'' located in or adjacent to secs. 26, 35, and 36, T. 2 S., R. 12 E. , Gila and Salt River Meridian.

(3) TIMING.—To the maximum extent practicable, the Secretary shall use the amount described in paragraph (1) during the 2-year period beginning on the date of consummation of the land exchange under section 4.

(4) THE POND PARCEL WORK.—

(A) IN GENERAL.—To improve rock climbing opportunities in the parcel described in section 4(c)(1)(F) and the upper Pond area, Resolution Copper, in consultation with the Secretary and rock climbing interests, may construct roads or improve road access to, construct trails, camping, parking areas, or other facilities on, or provide other access to, the Pond parcel described in section 4(c)(1)(F) before the date of the conveyance under section 4(c).

(B) COSTS.—Resolution Copper shall pay the cost of any activity carried out under subparagraph (A), in addition to the amount specified in paragraph (1).

(c) LAND ACQUIRED BY SECRETARY OF INTERIOR.—

(1) IN GENERAL.—Land acquired by the Secretary of the Interior under this Act shall—

(A) become part of the Federal administrative area (including the Las Cienegas National Conservation Area or other national conservation area, if applicable) within which the land is located or to which the land is adjacent; and

(B) be managed in accordance with the laws (including regulations) applicable to the Federal administrative area or national conservation area within which the land is located or to which the land is adjacent.

(2) LOWER SAN PEDRO RIVER LAND.—To preserve and enhance the natural character and conservation value of the lower San Pedro River land described in section 4(c)(2)(A), on acquisition of the land by the Secretary of the Interior, the land shall be automatically incorporated in, and administered as part of, the San Pedro Riparian National Conservation Area.

(d) WITHDRAWAL.—On acquisition by the United States of any land under this Act, subject to valid existing rights and without further action by the Secretary concerned, the acquired land is permanently withdrawn from all forms of entry and appropriation under—

(1) the public land laws (including the mining and mineral leasing laws); and

(2) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

SEC. 10. OAK FLAT CAMPGROUND.

(a) REPLACEMENT CAMPGROUNDS.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary, in consultation with Resolution Copper, the Town, and other interested parties, shall design and construct in the Globe Ranger District of the Tonto National Forest 1 or more replacement campgrounds for the Oak Flat Campground (including appropriate access routes to any replacement campgrounds).

(2) PUBLIC FACILITIES.—Any replacement campgrounds under this subsection shall be designed and constructed in a manner that adequately (as determined in the sole discretion of the Secretary) replaces, or improves on, the facilities, functions, and amenities available to the public at the Oak Flat Campground.

(b) COSTS OF REPLACEMENT.—Resolution Copper shall pay the actual cost of designing, constructing, and providing access to any replacement campgrounds under this subsection, not to exceed $1,000,000.

(c) INTERIM OAK FLAT CAMPGROUND ACCESS.—The document conveying the Federal land to Resolution Copper under section 4(b) shall specify that—

(1) during the 4-year period beginning on the date of enactment of this Act, the Secretary shall retain title to, operate, and maintain the Oak Flat Campground; and

(2) at the end of that 4-year period—

(A) the withdrawal of the Oak Flat Campground shall be revoked; and

(B) title to the Oak Flat Campground shall be simultaneously conveyed to Resolution Copper.

(d) BOULDERBLAST COMPETITION.—During the 5-year period beginning on the date of enactment of this Act, the Secretary, in consultation with Resolution Copper, may issue

not more than 1 special use permit per calendar year to provide public access to the bouldering area on the Federal land for purposes of the annual ''BoulderBlast'' competition.

SEC. 11. TRADITIONAL ACORN GATHERING AND RELATED ACTIVITIES IN AND AROUND OAK FLAT CAMPGROUND.

(a) SENSE OF CONGRESS REGARDING ACORN GATHERING.—In addition to the acorn gathering opportunities described in section 9(a)(3)(A)(ii), it is the sense of Congress that, on receipt of a request from the Apache or Yavapai Indian tribe or any other Indian tribe during the 180-day period beginning on the date of conveyance of the Federal land to Resolution Copper under section 4, Resolution Copper should endeavor to negotiate and execute a revocable authorization to each applicable Indian tribe to use an area in and around the Oak Flat Campground for traditional acorn gathering and related activities.

(b) AREA AND TERMS.—The precise area and terms of use described in subsection (a)—

(1) shall be agreed to by Resolution Copper and the applicable Indian tribes; and

(2) may be modified or revoked by Resolution Copper if Resolution Copper, in consultation with the Indian tribes, determines that all or a portion of the authorized use area needs to be closed on a temporary or permanent basis—

(A) to protect the health or safety of users; or

(B) to accommodate an exploration or mining plan of Resolution Copper.

SEC. 12. VALUE ADJUSTMENT PAYMENT TO UNITED STATES.

(a) ANNUAL PRODUCTION REPORTING.—

(1) IN GENERAL.—Beginning on February 15 of the first calendar year beginning after the date of commencement of production of valuable locatable minerals in commercial quantities (as defined by applicable Federal laws (including regulations)) from the Federal land conveyed to Resolution Copper under section 4(b), and annually thereafter, Resolution Copper shall file with the Secretary of the Interior a report indicating the quantity of locatable minerals in commercial quantities produced from the Federal land during the preceding calendar year.

(2) REPORT CONTENTS.—The reports under paragraph (1) shall comply with all recordkeeping and reporting requirements of applicable Federal laws (including regulations) in effect at the time of production relating to the production of valuable locatable minerals in commercial quantities on any federally owned land.

(b) PAYMENT ON PRODUCTION.—If the cumulative production of valuable locatable minerals in commercial quantities produced from the Federal land conveyed to Resolution Copper under section 4(b) exceeds the quantity of production of locatable minerals from the Federal land used in the royalty income approach analysis under the Uniform Appraisal Standards for Federal Land Acquisitions prepared under section 7(a)(4)(D), Resolution Copper shall pay to the United States, by not later than March 15 of each applicable calendar year, a value adjustment payment for the quantity of excess production at a rate equal to—

(1) the Federal royalty rate in effect for the production of valuable locatable minerals from federally owned land, if such a rate is enacted before December 31, 2012; or

(2) if no Federal royalty rate is enacted by the date described in paragraph (1), the royalty rate used for purposes of the royalty income approach analysis prepared under section 7(a)(4)(D).

(c) STATE LAW UNAFFECTED.—Nothing in this Act modifies, expands, diminishes, amends, or otherwise affects any State law (including regulations) relating to the imposition, application, timing, or collection of a State excise or severance tax under Arizona Revised Statutes 42–5201–5206.

(d) USE OF FUNDS.—The funds paid to the United States under this section shall—

(1) be deposited in a special account of the Treasury; and

(2) remain available, without further appropriation, to the Secretary and the Secretary of the Interior, as the Secretaries jointly determine to be appropriate, for the acquisition of land or interests in land from willing sellers in the State of Arizona.

SEC. 13. MISCELLANEOUS PROVISIONS.

(a) REVOCATION OF ORDERS; WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public land order that withdraws the Federal land from appropriation or disposal under a public land law shall be revoked to the extent necessary to permit disposal of the land.

(2) WITHDRAWAL.—On the date of enactment of this Act, if the Federal land or any Federal interest in the non-Federal land to be exchanged under section 4 is not withdrawn or segregated from entry and appropriation under a public land law (including mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)), the land or interest shall be withdrawn, without further action required by the Secretary concerned, from entry and appropriation, subject to the valid existing rights of Resolution Copper, until the date of the conveyance of Federal land under section 4(b).

(b) MAPS, ESTIMATES, AND DESCRIPTIONS.—

(1) MINOR ERRORS.—The Secretary concerned and Resolution Copper, may correct, by mutual agreement, any minor errors in any map, acreage estimate, or description of any land conveyed or exchanged under this Act.

(2) CONFLICT.—If there is a conflict between a map, an acreage estimate, or a description of land under this Act, the map shall control unless the Secretary concerned and Resolution Copper mutually agree otherwise.

(3) AVAILABILITY.—On the date of enactment of this Act, the Secretary shall file and make available for public inspection in the Office of the Supervisor, Tonto National Forest, each map referred to in this Act.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 411. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the City of St. George, Utah for airport purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BENNETT. Mr. President, I, along with the senior senator from Utah, am introducing today legislation to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of St. George, Utah for airport purposes.

On October 17, 2008, the City of St. George, UT, and the Federal Aviation Administration, FAA, broke ground on the construction of a new replacement airport, which will provide enhanced air service to the over 300,000 residents of southern Utah. The total project will cost $168 million and the start of operations at the replacement airport is scheduled for January 1, 2011.

The project is being funded largely through Federal grants covered by a letter of intent from the FAA in the amount of $119 million.

The City of St. George is financing its $44 million local share of the replacement airport through the sale of the existing airport property totaling 274 acres to Anderson Development Services Inc.

Recently it was discovered that 40 acres of the existing airport site was acquired by the City of St. George under Section 16 of the Federal Airport Act of 1946 (60 Stat. 173; 49 U.S.C. 1115) and can only be used for airport purposes.

The United States Secretary of the Interior issued a patent to the city of St. George in 1951 for the 40 acres and the city signed a deed to the land dated August 28, 1973, which contains a reverter deed restriction that if the land ceased to be used for airport purposes, the title would revert back to the United States Secretary of Transportation.

Federal legislation is required to authorize the Secretary of Transportation to release this reverter deed restriction on the use of this 40 acre parcel so the sale of the entire 274 acre airport can go through. A similar legislation (Public Law 94–244) releasing identical deed restrictions was enacted for the City of Grand Junction, CO; in 1976.

The legislation requires that upon release from these restrictions, the City of St. George, UT, must sell the 40 acre parcel for fair market value, which is estimated at $5 million, and the proceeds must be given to the FAA for the development, improvement, operation, or maintenance of the replacement airport as part of St. George's local contribution.

I urge my colleagues to support this straight-forward legislation. All funds will still be directed to the FAA. However, this minor correction will go a long way in assisting one of the fastest growing counties in the United States.

By Mr. INHOFE:

S. 412. A bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, today I am reintroducing a bill I had introduced with then-Senator Hillary Clinton on two previous occasions. It is interesting, because this bill didn't have a lot of opposition in the Senate. It did, however, have some opposition from the Bush administration. What we were attempting to do was to take the Federal Emergency Management Agency out from under where it was put, in the Department of Homeland Security, by the previous administration and give it independent status. This is something that has been talked about for a long period of time.

We can draw from our experience in Oklahoma and the fact that we had a devastating tornado go through—as we did last night, although it was even worse—which killed many people. At that time, James Lee Witt was the FEMA Director. He was President Clinton's appointee. I will always remember when that happened. A matter of a

few short hours after it happened, I called Mr. Witt and he met me in Oklahoma, and we got it done. At that time, FEMA was under the Environment and Public Works Committee. It was under the Stafford Act and virtually had independent status at that time.

Contrast that with only a few months ago when GEN Russel Honore, the general placed in charge of the military's relief efforts following Hurricane Katrina, said that FEMA and the Department of Homeland Security should be separate agencies. In an interview reported in Politico, General Honore said of FEMA:

I just think we've had some experience that demonstrates that the best thing to do is separate it and make it a separate agency.

Most importantly, President Obama said in remarks he delivered in New Orleans in February of last year:

If catastrophe comes, the American people must be able to call on a competent government . . . the Director of FEMA will report to me . . . and as soon as we take office, my FEMA director will work with emergency management officials in all 50 States to create a National Response Plan. Because we need to know—before disaster comes—who will be in charge; and how the Federal, State and local governments will work together to respond.

I talked to the President a few minutes ago. He still has these same feelings. I think it is very appropriate now to bring up something we had talked about before. I know the Democratic platform, for example, has a provision which states that the FEMA Director will report directly to the President, and I couldn't agree more. I don't agree with a lot of things from the Democratic platform, but I do agree with that.

Oklahoma has had more than its share of natural disasters. Only last night, three confirmed tornadoes touched down throughout Oklahoma, impacting the communities of Oklahoma City, Edmond, Pawnee, and a small community called Lone Grove. In Lone Grove, this very tiny community, eight people were killed. There are 35 still missing, so I think the death toll, unfortunately, could rise above that. I had occasion to talk to civic leaders there—Gary Hicks and city manager Marianne Elfert—this morning, and the number of Lone Grove residents who are missing right now is still not determined. So I think it is a real disaster.

It wasn't that long ago that we had the Eagle Picher area of Oklahoma hit by a tornado, and that was a very similar thing there, with seven deaths in that case. On May 1 of last year, I surveyed other tornado damage up there with Secretary Chertoff and FEMA Director Paulison, Governor Henry, and Congressman BOREN. As I said, seven people were killed, but that didn't go quite as smoothly as we would have hoped.

FEMA's integration into the Department of Homeland Security in 2003 added an extra layer of bureaucracy and removed much of the autonomy that once kept the agency operating efficiently. We learned in the aftermath of Hurricane Katrina that the extra coordination required between the Department of Homeland Security and the Federal Emergency Management Agency was at least partly responsible for the shortcomings of the Federal response. I visited the area right after Katrina, and I think they did a much better job than the press portrayed, but I still think that extra level of bureaucracy created a problem in getting things done immediately.

My legislation takes the necessary steps in giving the Director of FEMA Cabinet level status in the event of a natural disaster and acts of terrorism and makes that person the principal adviser to the President, Homeland Security Council, and the Secretary of Homeland Security. So we are kind of reversing it, and he is going to be in a Cabinet-level position. Obviously, things can then be done a lot faster and a lot better. Perhaps most importantly, the legislation defines the primary mission and specific activities of the Federal Emergency Management Agency and its Director, and places directly upon them the obligation to ensure FEMA's mission is carried out.

Now, that is exactly what President Obama said while he was campaigning for President and what he reaffirmed to me today on the telephone.

Let me explain some other events that originally led me to introduce this legislation. Oklahoma first encountered significant problems with FEMA when wildfires ravaged the State in 2005 and 2006. These devastating wildfires swept through the entire State, leading to declarations for public assistance, individual assistance, and hazard mitigation funding. In January of 2007, Oklahoma encountered severe winter storms with devastating results. These storms led to prolonged loss of power and extensive building damage for many of my constituents. One of my constituents happened to be my wife—we have been married 49 years—and she was without electricity for 9 days, so that does get your attention.

Later this year, Oklahoma was hit by heavy rain, tornadoes, and flooding from May through September. The State made a number of disaster declarations during each of these periods, but each and every time, the process it took to obtain aid from FEMA became increasingly difficult, wrought with indecisiveness and an inability of Homeland Security to communicate with each other. Prior to the placement of FEMA under DHS, my State had not encountered nearly the same level of bureaucratic delays or communications as it has since that time.

Oklahoma has also struggled with FEMA regarding the determination of dates of incident periods, which is why I put language in my bill to give deference to the State's documentation regarding the dates of such incidents. Now, some of you guys are not from States where you have the number of disasters we have had, so it is something you are not as familiar with. But we certainly are. I see the junior Senator from Oklahoma on the floor here, and he knows too that we live through these things on a regular basis. We have had tornadoes, ice storms, windstorms, and other things people haven't had.

I think Senator Clinton and I were right when we introduced this the first time, and I believe it is consistent with what President Obama has reaffirmed to me as recently as today. It will be a better arrangement and I will be looking for supporters.

We have introduced the bill. It is S. 412. Again, this bill takes FEMA out from under DHS and gives it more of an independent status so it can respond in a more rapid way as it did prior to 2003.

By Mr. DODD (for himself, Mr. LEVIN, Mr. MENENDEZ, Mr. REED, Mr. AKAKA, Mr. SCHUMER, Mr. TESTER, Mr. BROWN, Mr. MERKLEY, Mr. KERRY, Mr. LEAHY, Mr. DURBIN, Mr. HARKIN, Mrs. MCCASKILL, Mr. WHITEHOUSE, and Mr. CASEY):

S. 414. A bill to amend the Consumer Credit Protection Act, to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I am pleased today to be reintroducing comprehensive credit card legislation that would reform credit card practices and prohibit card issuers from continuing policies that are threatening the financial security of American consumers and their families. The Credit Card Accountability, Responsibility and Disclosure Act, Credit CARD Act, will help to end the practices that cost American families billions of dollars each year.

This is a time of serious hardship for American families. As losses mount as a result of the economic crisis, lenders are squeezing consumers, often unfairly and without adequate notice, by raising credit card rates and tightening repayment terms. Credit card delinquency rates are inching higher, and repayment rates are dipping. At a time when Americans are becoming increasingly reliant on credit cards, credit card companies are being more aggressive about finding ways to charge their customers. Over $17 billion in credit card penalty fees were charged to Americans in 2006—a ten-fold increase from what was charged just ten years ago. These penalties are contributing to the avalanche of credit card debt under which many American consumers increasingly find themselves buried.

In my travels around Connecticut, I hear frequently about the burden of these credit card practices from constituents. Connecticut has the third-

highest median amount of credit card debt in the country—$2,094 per person. Non-business bankruptcy filings in the State are increasing, and in the second quarter of last year, credit card delinquencies increased in 7 of the 8 counties in the State.

In December, the Federal Reserve, Office of Thrift Supervision, and National Credit Union Administration finalized unfair and deceptive acts and practices rules aimed at curbing some of these practices. For example, for customers in good standing the new rules will prevent issuers from applying interest rate increases retroactively to credit card debt incurred prior to the interest rate increase. They will also help ensure that issuers apply payments fairly, and extend the time that consumers have to make their credit card payments. The rules are a good first step in providing needed consumer protections in some areas. They fall short in other important areas, however, failing to address issues including universal default, ''any time any reason'' repricing, multiple overlimit fees, and youth marketing, which I'll explain in a moment.

In anticipation of rules going into effect in July of 2010, issuers are raising their interest rates and cutting lines of credit even on consumers with a long and unblemished history of good payment, thereby underscoring the need for this legislation.

That is why I am reintroducing the Credit CARD Act. This bill will help to reform credit card practices that drag so many American families further and further into debt, and prevent banks from taking advantage of consumers through confusing, misleading, and unfair terms and procedures. It strengthens regulation and oversight of the credit card industry and prohibits the unfair and deceptive practices that in far too many instances keep consumers mired in debt.

Among its other provisions, the CARD Act will eliminate imposition of excessive fees and penalties; universal default provisions that permit credit card issuers to increase interest rates on cardholders in good standing for reasons unrelated to the cardholder's behavior with respect to that card; ''Any time any reason'' changes to credit card agreements—the bill prevents issuers from unilaterally changing the terms of a credit card contract for the length of the card agreement; and retroactive interest rate increases, unfair payment allocation practices, and double-cycle billing.

The Credit Card Act also contains additional critical consumer protections. Among other things, the bill would: allow customers who close their accounts to pay under the terms existing at the time the account is closed; ensure that cardholders receive sufficient information about the terms of their account; require issuers to lower penalty rates that have been imposed on a cardholder after 6 months if the cardholder meets the obligations of the credit card terms; and enhance regulators' ability to protect consumers against unfair credit card practices by giving each federal banking agency the authority to prescribe regulations governing unfair or deceptive practices by the institutions they regulate.

The bill also reins in irresponsible lending through a number of provisions aimed at protecting young consumers who lack the ability to repay substantial credit card debt.

This legislation incorporates several key concepts included in the legislative proposals put forth by some of my colleagues, notably Senators LEVIN, MENENDEZ, AKAKA, and TESTER. Each is a cosponsor of this legislation, as are Senators REED, SCHUMER, BROWN, MERKLEY, KERRY, LEAHY, DURBIN, HARKIN, MCCASKILL, WHITEHOUSE, and CASEY.

This bill has the support of a wide array of consumer advocates and labor organizations, including the Center for Responsible Lending, Connecticut Public Interest Research Group, the Connecticut Association for Human Services, Consumer Action, Consumer Federation of America, Consumers Union, Demos, the Leadership Conference on Civil Rights, the NAACP, the National Association of Consumer Advocates, the National Consumer Law Center, the National Council of LaRaza, the Service Employees International Union, and the U.S. Public Interest Research Group. The bill also has the support of the National Small Business Association.

As the U.S. economy tightens, financially vulnerable families need the protections of the Credit CARD Act more than ever. That is what the American people and the people of Connecticut are demanding. For this reason, I urge my colleagues to join me in cosponsoring, and eventually in enacting the Credit CARD Act.

Mr. LEVIN. Mr. President, I am pleased today to join my friend and colleague Senator DODD in reintroducing comprehensive legislation to combat credit card abuses that have been hurting American consumers for far too long. Our bill, which is supported and cosponsored by other Senate colleagues as well, is called the Credit Card Accountability Responsibility and Disclosure Act, or CARD Act of 2009. With the economic hardships facing Americans today, from falling home prices to rising unemployment, it is more important than ever for Congress to act now to stop credit card abuses and protect American families and businesses from unfair credit card practices.

Every day the taxpayer is being asked to foot the bill for our biggest banks' irresponsible lending decisions. America's banking giants can't be allowed to dig themselves out of the hole they are in by loading up American families with unfair fees and interest charges. Even as the prime rate has plummeted, some credit card companies are hiking interest rates on millions of customers who play by the rules. In other words, the banks are punishing the very taxpayers that they have come to, hat in hand, for financial rescue. It can't be allowed to continue.

Credit card companies regularly use a host of unfair practices. They hike the interest rates of cardholders who pay on time and comply with their credit card agreements. They impose interest rates as high as 32 percent, charge interest for debt that was paid on time, and, in some cases, apply higher interest rates retroactively to existing credit card debt. They pile on excessive fees and then charge interest on those fees. And they engage in a number of other unfair practices that are burying American consumers in a mountain of debt. It's long past time to enact legislation to protect American consumers.

In December, the Federal Reserve and other bank regulators finally issued a regulation to stop some of the most egregiously unfair practices. For example, the new credit card regulation stops banks from retroactively raising interest rates on cardholders who meet their obligations, requires banks to mail credit card bills at least 21 days before the payment due date, and forces banks to more fairly apply consumer payments. It is a good first step, and long overdue. But the regulation regrettably leaves in place many blatantly unfair credit card practices that mire families in debt. It fails to stop, for example, abuses such as charging interest on debt that was paid on time, charging folks a fee simply to pay their bills, and hiking interest rates on a credit card because of a misstep on another, unrelated debt, a practice known as universal default. Legislation is needed not only to end those abusive practices—which are not prohibited by the Federal Reserve regulation—but also to provide a statutory foundation for that new regulation so that it cannot be weakened in the future.

The bill we are introducing today will not only help protect consumers and ensure their fair treatment, but it will also make certain that credit card companies willing to do the right thing are not put at a competitive disadvantage by companies continuing unfair practices.

Some argue that Congress doesn't need to ban unfair credit card practices; they contend that improved disclosure alone will empower consumers to seek out better deals. Sunlight can be a powerful disinfectant, but credit cards have become such complex financial products that even improved disclosure will frequently not be enough to curb the abuses. Some practices are so confusing that consumers can't easily understand them. Additionally, better disclosure does not always lead to greater market competition, especially when essentially an entire industry is using and benefiting from practices that unfairly hurt consumers.

In 2006, Americans used 700 million credit cards to buy about $2 trillion in

goods and services. The average family now has 5 credit cards. Credit cards are being used to pay for groceries, mortgage payments, even taxes. And they are saddling U.S. consumers, from college students to seniors, with a mountain of debt. The latest figures show that U.S. credit card debt is now approaching $1 trillion. These consumers are routinely being subjected to unfair practices that squeeze them for ever more money, sinking them further and further into debt.

Congress acted boldly and quickly to bail out the banks; now is time to do something for the consumer. Too many American families are being hurt by too many unfair credit card practices to delay action any longer. I commend Senator DODD, Chairman of the Senate Banking Committee, for tackling credit card reform, and look forward to Congress promptly and urgently taking the steps needed to ban unfair practices that are causing so much pain and financial damage to American families.

Abusive credit card practices are a concern that I have been tracking over the past several years through the Permanent Subcommittee on Investigations, which I chair. The Subcommittee held two investigative hearings in 2007, exposing those practices, and based on those hearings, I introduced legislation—the Stop Unfair Practices in Credit Cards Act, S. 1395—to ban the outrageous credit card abuses we documented. I am pleased that Senators MCCASKILL, LEAHY, DURBIN, BINGAMAN, CANTWELL, WHITEHOUSE, KOHL, BROWN, KENNEDY, and SANDERS joined as cosponsors. The Dodd-Levin bill we are introducing today incorporates almost all of S. 1395, and adds other important protections as well. It is the strongest credit card bill yet.

The Dodd-Levin bill includes, for example, the following provisions that also appeared in the bill I introduced with Senator MCCASKILL and others. It would:

No Interest on Debt Paid on Time. Prohibit interest charges on any portion of a credit card debt which the card holder paid on time during a grace period.

Prohibition on Universal Default. Prohibit credit card issuers from increasing interest rates on cardholders in good standing for reasons unrelated to the cardholder's behavior with respect to that card.

Apply Interest Rate Increases Only to Future Debt. Require increased interest rates to apply only to future credit card debt, and not to debt incurred prior to the increase.

No Interest on Fees. Prohibit the charging of interest on credit card transaction fees, such as late fees and over-the-limit fees.

Restrictions on Over-Limit Fees. Prohibit the charging of repeated overlimit fees for a single instance of exceeding a credit card limit.

Prompt and Fair Crediting of Card Holder Payments. Require payments to be applied first to the credit card balance with the highest rate of interest, and to minimize finance charges.

Fixed Credit Limits. Require card issuers to offer consumers the option of operating under a fixed credit limit that cannot be exceeded.

No Pay-to-Pay Fees. Prohibit charging a fee to allow a credit card holder to make a payment on a credit card debt, whether payment is by mail, telephone, electronic transfer, or otherwise.

The Dodd-Levin bill also includes important additional protections. It would:

Require issuers to lower penalty rates that have been imposed on a cardholder after 6 months if the cardholder commits no further violations.

Enhance protection against unfair and deceptive practices by giving each federal banking agency the authority to prescribe regulations governing unfair or deceptive practices by banks or savings and loan institutions.

Improve disclosure requirements by, for example, requiring issuers to provide individual consumer account information and to disclose the period of time and total interest it will take to pay off the card balance if only minimum monthly payments are made.

Protect young consumers from credit card solicitations.

To understand why these protections are needed, I would like to provide a brief overview of some of the most prevalent credit card abuses we uncovered and some of the stories that American consumers shared with us during the course of the inquiries carried out by my Permanent Subcommittee on Investigations.

The first case history we examined illustrates the fact that major credit card issuers today impose a host of fees on their cardholders, including late fees and over-the-limit fees that are not only substantial in themselves but can contribute to years of debt for families unable to immediately pay them.

Wesley Wannemacher of Lima, Ohio, testified at our March 2007 hearing. In 2001 and 2002, Mr. Wannemacher used a new credit card to pay for expenses mostly related to his wedding. He charged a total of about $3,200, which exceeded the card's credit limit by $200. He spent the next six years trying to pay off the debt, averaging payments of about $1,000 per year. As of February 2007, he'd paid about $6,300 on his $3,200 debt, but his billing statement showed he still owed $4,400.

How is it possible that a man pays $6,300 on a $3,200 credit card debt, but still owes $4,400? Here's how. On top of the $3,200 debt, Mr. Wannemacher was charged by the credit card issuer about $4,900 in interest, $1,100 in late fees, and $1,500 in over-the-limit fees. He was hit 47 times with over-limit fees, even though he went over the limit only 3 times and exceeded the limit by only $200. Altogether, these fees and the interest charges added up to $7,500, which, on top of the original $3,200 credit card debt, produced total charges to him of $10,700.

In other words, the interest charges and fees more than tripled the original $3,200 credit card debt, despite payments by the cardholder averaging $1,000 per year. Unfair? Clearly, but our investigation has shown that sky-high interest charges and fees are not uncommon in the credit card industry. While the Wannemacher account happened to be at Chase, penalty interest rates and fees are also employed by other major credit card issuers.

The week before our March hearing, Chase decided to forgive the remaining debt on the Wannemacher account, and while that was great news for the Wannemacher family, that decision didn't begin to resolve the problem of excessive credit card fees and sky-high interest rates that trap too many hard-working families in a downward spiral of debt.

These high fees are made worse by the industry-wide practice of including all fees in a consumer's outstanding balance so that they also incur interest charges. Those interest charges magnify the cost of the fees and can quickly drive a family's credit card debt far beyond the cost of their initial purchases. It is one thing for a bank to charge interest on funds lent to a consumer; charging interest on penalty fees goes too far.

A second troubling case history involves Charles McClune, a 51–year-old Michigan resident who is married with one child. Mr. McClune has a credit card account which he closed in 1998, and has been trying to pay off for more than 10 years. Due to excessive fees and interest rates, and despite paying more than four times his original credit card debt of less than $4,000, Mr. McClune still owes thousands on his credit card, with no end in sight.

Mr. McClune first opened his credit card account while in college, in 1986, at Michigan National Bank through a student-targeted credit promotion. After leaving college, the credit limit on his card was increased to $4,000. By 1993, although he had not exceeded the credit limit through purchases, Mr. McClune had missed some payments and was assessed interest and fees that pushed his balance over the $4,000 limit. From 1993 to 1996, he exceeded his limit again, on several occasions, due to interest and fee charges. He stopped making purchases on the credit card in 1995.

In 1996, Mr. McClune's credit card account was purchased by Chase Bank. In 1998, Mr. McClune asked Chase to close the account, and Chase did so. Although he never made a single purchase on his credit card while the account was with Chase, Chase repeatedly increased the interest rate on his account, including after the account was closed. In 2002, for example, his interest rate was about 21 percent; by October 2005, it had climbed to 29.99 percent where it remained for more than two years until March 2008; it then

dropped slightly to 29.24 percent. The higher interest rates were applied retroactively to Mr. McClune's closed account balance, increasing the size of his minimum payments and his overall debt.

Chase also assessed Mr. McClune repeated over-the-limit and late fees, which began at $29 and increased over time to $39 per fee. Chase cannot locate statements for Mr. McClune's account prior to February 2001, so there is no record of all the fees he has paid. The records in existence show that, since February 2001, he has paid 64 over-the-limit fees totaling $2,200. Those fees stopped after the March 2007 hearing before my Subcommittee, in which Chase promised to stop charging more than three over-the-limit fees for a single violation of a credit card limit. In addition to the 64 over-the-limit fees, since February 2001, Chase has charged Mr. McClune nearly $2,000 in late fees.

The records also show that since 2001, Mr. McClune was contacted by telephone on several occasions by Chase representatives seeking payment on his account. If he agreed to make a payment over the telephone, Chase charged him—without notifying him at the time—a fee of $12 to $15 per telephone payment. When asked about these fees, Chase told the Subcommittee that the fees were imposed, because on each occasion Mr. McClune had spoken with a ''live advisor.'' Since 2001, he has paid a total of $160 in these pay-to-pay fees.

Altogether, since 2001, Mr. McClune has paid nearly $4,400 in fees on a debt of less than $4,000. If the more than four years of missing credit card bills were available from 1996 to 2000, this fee total would be even higher. In addition, each fee was added to Mr. McClune's outstanding credit card balance, and Chase charged him interest on the fee amounts, thereby increasing his debt by thousands of additional dollars.

In February 2001, Chase records show that Mr. McClune's credit card debt totaled nearly $5,200. For the next 7 years, although he did not pay every month, Mr. McClune paid nearly $2,000 per year toward his credit card debt, but was unable to pay it off. At one time, he paid $150 every two weeks for several weeks. Those payments did not bring his debt under the $4,000 credit limit, or reduce his interest rate.

In January 2007, Mr. McClune received a letter from Chase stating that if he made his next payment on time, he would receive a $50 credit on his debt. Mr. McClune cashed out his IRA and paid $4,000 on his credit card debt. Because he made this payment in February, however, he did not receive the $50 credit for an on-time payment. Instead, he was assessed a $39 late fee, a $39 over-the-limit fee, and a $14.95 payment fee for making the $4,000 payment over the telephone.

Mr. McClune was never offered a payment plan or a reduced interest rate by Chase to help him pay down his debt. His credit card bills show that from February 2001 to June 2008, he paid Chase a total of $15,800. If the four years of missing credit card bills from 1996 to 2000 were available, his total payments would likely exceed $20,000. In June 2008, his credit card bill showed he was charged 29 percent interest and a $39 late fee on a balance of $3,300.

How could Mr. McClune pay $15,000 to $20,000 on credit card purchases of less than $4,000, and still owe $3,300? His credit card statements since 2001 show that he was socked with over $9,700 in interest charges, $2,200 in over-the-limit fees, $2,000 in late fees, and $160 in pay-to-pay fees. All of these interest charges and fees were assessed by Chase while the account was closed and without a single purchase having been made since 1995. Despite his lack of purchases and payments totaling $15,800, Chase records show that, from February 2001 until June 2008, Mr. McClune was able to reduce his credit card balance by only about $1,850.

Mr. McClune is not trying to avoid his debt. He has made years of payments on a closed credit card account that he has not used to make a purchase in 13 years. He has paid thousands and thousands of dollars—four and possibly five times what he originally owed—in an attempt to pay off his credit card account. He is still paying. But his thousands of dollars in payments are not enough for his credit card issuer which is squeezing him for every cent it can, fair or not, for years on end.

Tragically, Mr. McClune and Mr. Wannemacher have a lot of company in their credit card experiences. The many case histories investigated by the Subcommittee show that responsible cardholders across the country are being squeezed by unfair credit card lending practices involving excessive fee and interest charges. The current regulatory regime—even with the new Federal Reserve regulation—is insufficient to prevent these ongoing credit card abuses. Legislation is badly needed.

Another galling practice featured in our March hearing involves the fact that credit card debt that is paid on time routinely accrues interest charges, and credit card bills that are paid on time and in full are routinely inflated with what I call ''trailing interest.'' Every single credit card issuer contacted by the Subcommittee engaged in both of these unfair practices which squeeze additional interest charges from responsible cardholders.

Here's how it works. Suppose a consumer who usually pays his account in full, and owes no money on December 1st, makes a lot of purchases in December, and gets a January 1 credit card bill for $5,020. That bill is due January 15. Suppose the consumer pays that bill on time, but pays $5,000 instead of the full amount owed. What do you think the consumer owes on the next bill?

If you thought the bill would be the $20 past due plus interest on the $20, you would be wrong. In fact, under industry practice today, the bill would likely be twice as much. That's because the consumer would have to pay interest, not just on the $20 that wasn't paid on time, but also on the $5,000 that was paid on time. In other words, the consumer would have to pay interest on the entire $5,020 from the first day of the new billing month, January 1, until the day the bill was paid on January 15, compounded daily. So much for a grace period! In addition, the consumer would have to pay the $20 past due, plus interest on the $20 from January 15 to January 31, again compounded daily. In this example, using an interest rate of 17.99 percent (which is the interest rate charged to Mr. Wannamacher), the $20 debt would, in one month, rack up $35 in interest charges and balloon into a debt of $55.21.

You might ask—hold on—why does the consumer have to pay any interest at all on the $5,000 that was paid on time? Why does anyone have to pay interest on the portion of a debt that was paid by the date specified in the bill—in other words, on time? The answer is, because that's how the credit card industry has operated for years, and they have gotten away with it.

There's more. You might think that once the consumer gets gouged in February, paying $55.21 on a $20 debt, and pays that bill on time and in full, without making any new purchases, that would be the end of it. But you would be wrong again. It's not over.

Even though, on February 15, the consumer paid the February bill in full and on time—all $55.21—the next bill has an additional interest charge on it, for what we call ''trailing interest.'' In this case, the trailing interest is the interest that accumulated on the $55.21 from February 1 to 15, which is the time period from the day when the bill was sent to the day when it was paid. The total is 38 cents. While some issuers will waive trailing interest if the next month's bill is less than $1, if a consumer makes a new purchase, a common industry practice is to fold the 38 cents into the end-of-month bill reflecting the new purchase.

Now 38 cents isn't much in the big scheme of things. That may be why many consumers don't notice these types of extra interest charges or try to fight them. Even if someone had questions about the amount of interest on a bill, most consumers would be hard pressed to understand how the amount was calculated, much less whether it was incorrect. But by nickel and diming tens of millions of consumer accounts, credit card issuers reap large profits. I think it is indefensible to make consumers pay interest on debt which they pay on time. It is also just plain wrong to charge trailing interest when a bill is paid on time and in full.

My Subcommittee's second hearing focused on another set of unfair credit card practices involving unfair interest

rate increases. Cardholders who had years-long records of paying their credit card bills on time, staying below their credit limits, and paying at least the minimum amount due, were nevertheless socked with substantial interest rate increases. Some saw their credit card interest rates double or even triple. At the hearing, three consumers described this experience.

Janet Hard of Freeland, Michigan, had accrued over $8,000 in debt on her Discover card. Although she made payments on time and paid at least the minimum due for over two years, Discover increased her interest rate from 18 percent to 24 percent in 2006. At the same time, Discover applied the 24 percent rate retroactively to her existing credit card debt, increasing her minimum payments and increasing the amount that went to finance charges instead of the principal debt. The result was that, despite making steady payments totaling $2,400 in twelve months and keeping her purchases to less than $100 during that same year, Janet Hard's credit card debt went down by only $350. Sky-high interest charges, inexplicably increased and unfairly applied, ate up most of her payments.

Millard Glasshof of Milwaukee, Wisconsin, a retired senior citizen on a fixed income, incurred a debt of about $5,000 on his Chase credit card, closed the account, and faithfully paid down his debt with a regular monthly payment of $119 for years. In December 2006, Chase increased his interest rate from 15 percent to 17 percent, and in February 2007, hiked it again to 27 percent. Retroactive application of the 27 percent rate to Mr. Glasshof's existing debt meant that, out of his $119 payment, about $114 went to pay finance charges and only $5 went to reducing his principal debt. Despite his making payments totaling $1,300 over twelve months, Mr. Glasshof found that, due to high interest rates and excessive fees, his credit card debt did not go down at all. Later, after the Subcommittee asked about his account, Chase suddenly lowered the interest rate to 6 percent. That meant, over a one year period, Chase had applied four different interest rates to his closed credit card account: 15 percent, 17 percent, 27 percent, and 6 percent, which shows how arbitrary those rates are.

Then there is Bonnie Rushing of Naples, Florida. For years, she had paid her Bank of America credit card on time, providing at least the minimum amount specified on her bills. Despite her record of on-time payments, in 2007, Bank of America nearly tripled her interest rate from 8 to 23 percent. The Bank said that it took this sudden action because Ms. Rushing's FICO credit score had dropped. When we looked into why it had dropped, it was apparently because she had opened Macy's and J. Jill credit cards to get discounts on purchases. Despite paying both bills on time and in full, the automated FICO system had lowered her credit rating, and Bank of America had followed suit by raising her interest rate by a factor of three. Ms. Rushing closed her account and complained to the Florida Attorney General, my Subcommittee, and her card sponsor, the American Automobile Association. Bank of America eventually restored the 8 percent rate on her closed account.

In addition to these three consumers who testified at the hearing, the Subcommittee presented case histories for five other consumers who experienced substantial interest rate increases despite complying with their credit card agreements.

I'd also like to note that, in each of these cases, the credit card issuer told our Subcommittee that the cardholder had been given a chance to opt out of the increased interest rate by closing their account and paying off their debt at the prior rate. But each of these cardholders denied receiving an opt-out notice, and when several tried to close their account and pay their debt at the prior rate, they were told they had missed the opt-out deadline and had no choice but to pay the higher rate. Our Subcommittee examined copies of the opt-out notices and found that some were filled with legal jargon, were hard to understand, and contained procedures that were hard to follow. When we asked the major credit card issuers what percentage of persons offered an opt-out actually took it, they told the Subcommittee that 90 percent did not opt out of the higher interest rate—a percentage that is contrary to all logic and strong evidence that current opt-out procedures don't work.

The case histories presented at our hearings illustrate only a small portion of the abusive credit card practices going on today. Since early 2007, the Subcommittee has received letters and emails from thousands of credit card cardholders describing unfair credit card practices and asking for help to stop them, more complaints than I have received in any investigation I've conducted in more than 25 years in Congress. The complaints stretch across all income levels, all ages, and all areas of the country. The bottom line is that these abuses have gone on for too long. In fact, these practices have been around for so many years that they have in many cases become the industry norm, and our investigation has shown that many of the practices are too entrenched, too profitable, and too immune to consumer pressure for the companies to change them on their own.

For these reasons, I urge my colleagues to support enactment of the Dodd-Levin Credit CARD Act this year. Congress has already gone to bat for the banks that engage in abusive credit card practices; it's time we go to bat for the American family.

By Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. BINGAMAN, Mrs. BOXER, Mr. BROWN, Mr. CARDIN, Mr. CASEY, Mr. DURBIN, Mr. FEINGOLD, Mr. KENNEDY, Ms. MIKULSKI, Mr. MENENDEZ, Mr. MERKLEY, Mr. SANDERS, Ms. STABENOW, and Mr. WHITEHOUSE):

S. 416. A bill to limit the use of cluster munitions; to the Committee on Foreign Relations.

Mrs. FEINSTEIN. Mr. President, I rise today with my friend and colleague from Vermont, Senator LEAHY, to re-introduce the Cluster Munitions Civilian Protection Act.

The bill is also co-sponsored by Senators BINGAMAN, BOXER, BROWN, CARDIN, CASEY, DURBIN, FEINGOLD, KENNEDY, MIKULSKI, MENENDEZ, MERKLEY, SANDERS, STABENOW, and WHITEHOUSE.

Our legislation places common sense restrictions on the use of cluster bombs. It prevents any funds from being spent to use cluster munitions that have a failure rate of more than one percent; and unless the rules of engagement specify: the cluster munitions will only be used against clearly defined military targets and; will not be used where civilians are known to be present or in areas normally inhabited by civilians.

The bill also requires the President to submit a report to the appropriate Congressional committees on the plan to clean up unexploded cluster bombs.

Finally, the bill includes a national security waiver that allows the President to waive the prohibition on the use of cluster bombs with a failure rate of more than one percent, if he determines it is vital to protect the security of the United States to do so.

Cluster munitions are large bombs, rockets, or artillery shells that contain up to hundreds of small submunitions, or individual ''bomblets.''

They are intended for attacking enemy troop formations and armor covering over a half mile radius.

Yet, in practice, they pose a real threat to the safety of civilians when used in populated areas because they leave hundreds of unexploded bombs over a very large area and they are often inaccurate.

Indeed, the human toll of these weapons has been terrible:

In Laos, approximately 11,000 people, 30 percent of them children, have been killed or injured by U.S. cluster munitions since the Vietnam War ended.

In Afghanistan, between October 2001 and November 2002, 127 civilians lost their lives due to cluster munitions, 70 percent of them under the age of 18.

An estimated 1,220 Kuwaitis and 400 Iraqi civilians have been killed by cluster munitions since 1991.

In the 2006 war in Lebanon, Israeli cluster munitions, many of them manufactured in the U.S., injured and killed 200 civilians.

During the 2003 invasion of Baghdad, the last time the U.S. used cluster munitions, these weapons killed more civilians than any other type of U.S. weapon.

The U.S. 3rd Infantry Division described cluster munitions as ''battlefield losers'' in Iraq, because they were often forced to advance through areas contaminated with unexploded duds.

During the 1991 Gulf War, U.S. cluster munitions caused more U.S. troop casualties than any single Iraqi weapon system, killing 22 U.S. servicemen.

Yet we have seen significant progress in the effort to protect innocent civilians from these deadly weapons since we first introduced this legislation in the 110th Congress.

In December, 95 countries came together to sign the Oslo Convention on Cluster Munitions which would prohibit the production, use, and export of cluster bombs and requires signatories to eliminate their arsenals within 8 years.

This group includes key NATO allies such as Canada, the United Kingdom, France, and Germany, who are fighting alongside our troops in Afghanistan.

In 2007, Congress passed and President Bush signed into law a provision from our legislation contained in the fiscal year 2008 Consolidated Appropriations Act prohibiting the sale and transfer of cluster bombs with a failure rate of more than one percent.

In addition, the Senate Appropriations Committee approved the fiscal year 2009 State, Foreign Operations and Related Programs Appropriations bill renewing the ban for another year.

I am confident this ban will be included in an fiscal year 2009 Omnibus appropriations bill.

These actions will help save lives. But much more work remains to be done and significant obstacles remain.

For one, the United States chose not to participate in the Oslo process or sign the treaty.

The Pentagon continues to believe that cluster munitions are ''legitimate weapons with clear military utility in combat.'' It would prefer that the United States work within the Geneva-based Convention on Certain Conventional Weapons, CCW, to negotiate limits on the use of cluster munitions.

Yet these efforts have been going on since 2001 and it was the inability of the CCW to come to any meaningful agreement which prompted other countries, led by Norway, to pursue an alternative treaty through the Oslo process.

A lack of U.S. leadership in this area has given cover to other major cluster munitions producing nations—China, Russia, India, Pakistan, Israel, and Egypt—who have refused to sign the Oslo Convention as well.

Recognizing the United States could not remain silent in the face of international efforts to restrict the use of cluster bombs, Secretary of Defense Robert Gates issued a new policy on cluster munitions in June 2008 stating that after 2018, the use, sale and transfer of cluster munitions with a failure rate of more than 1 percent would be prohibited.

The policy is a step in the right direction, but under the terms of this new policy, the Pentagon will still have the authority to use cluster bombs with high failure rates for the next ten years.

That is unacceptable and runs counter to our values.

The United States maintains an arsenal of an estimated 5.5 million cluster munitions containing 728 million submunitions which have an estimated failure rate of between 5 and 15 percent.

What does that say about us, that we are still prepared to use, sell and transfer these weapons with well known failure rates?

The fact is, cluster munition technologies already exist, that meet the one percent standard. Why do we need to wait ten years?

This delay is especially troubling given that in 2001, former Secretary of Defense William Cohen issued his own policy on cluster munitions stating that, beginning in fiscal year 2005, all new cluster munitions must have a failure rate of less than one percent.

Unfortunately, the Pentagon was unable to meet this deadline and Secretary Gates' new policy essentially postpones any meaningful action for another ten years.

That means, if we do nothing, by 2018 close to twenty years will have passed since the Pentagon first recognized the threat these deadly weapons pose to innocent civilians.

We can do better.

Our legislation simply moves up the Gates policy by ten years. For those of my colleagues who are concerned that it may be too soon to enact a ban on the use of cluster bombs with failure rates of more than one percent, I point out again that our bill allows the President to waive this restriction if he determines it is vital to protect the security of the United States to do so.

I would also remind my colleagues that the United States has not used cluster bombs in Iraq since 2003 and has observed a moratorium on their use in Afghanistan since 2002.

We introduced this legislation to make this moratorium permanent for the entire U.S. arsenal of cluster munitions.

We introduced this legislation for children like Hassan Hammade.

A 13-year-old Lebanese boy, Hassan lost four fingers and sustained injuries to his stomach and shoulder after he picked up an unexploded cluster bomb in front of an orange tree.

He said:

I started playing with it and it blew up. I didn't know it was a cluster bomb—it just looked like a burned out piece of metal.

All the children are too scared to go out now, we just play on the main roads or in our homes.

I urge my colleagues to support this legislation. We should do whatever we can to protect more innocent children and other civilians from these dangerous weapons.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 416

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 ''Cluster Munitions Civilian Protection Act of 2009''.

SEC. 2. LIMITATION ON THE USE OF CLUSTER MUNITIONS.

No funds appropriated or otherwise available to any Federal department or agency may be obligated or expended to use any cluster munitions unless—

(1) the submunitions of the cluster munitions, after arming, do not result in more than 1 percent unexploded ordnance across the range of intended operational environments; and

(2) the policy applicable to the use of such cluster munitions specifies that the cluster munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present or in areas normally inhabited by civilians.

SEC. 3. PRESIDENTIAL WAIVER.

The President may waive the requirement under section 2(1) if, prior to the use of cluster munitions, the President—

(1) certifies that it is vital to protect the security of the United States; and

(2) not later than 30 days after making such certification, submits to the appropriate congressional committees a report, in classified form if necessary, describing in detail—

(A) the steps that will be taken to protect civilians; and

(B) the failure rate of the cluster munitions that will be used and whether such munitions are fitted with self-destruct or self-deactivation devices.

SEC. 4. CLEANUP PLAN.

Not later than 90 days after any cluster munitions are used by a Federal department or agency, the President shall submit to the appropriate congressional committees a plan, prepared by such Federal department or agency, for cleaning up any such cluster munitions and submunitions which fail to explode and continue to pose a hazard to civilians.

SEC. 5. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

In this Act, the term ''appropriate congressional committees'' means the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

Mr. LEAHY. Mr. President, I am pleased to join with my friend from California, Senator FEINSTEIN, in introducing the Cluster Munitions Civilian Protection Act of 2009. This is a slightly revised version of a bill of the same name which we introduced in 2007.

Since December 3, 2008, when the Convention on Cluster Munitions opened for signature in Dublin, 96 countries have signed the treaty including Great Britain, Germany, Canada, Norway, Australia and other allies of the United States.

The treaty is the culmination of a year of negotiations, launched by Norway, among 107 governments that came together to prohibit the use of cluster munitions that cause unacceptable harm to civilians.

The Bush administration did not participate in the negotiations, which I believe was a mistake. As the Nation with the world's most powerful military we should not be on the sidelines while others are trying to protect the

lives and limbs of civilians who comprise the vast majority of war casualties today.

The Pentagon continues to insist that cluster munitions have military utility, and that the U.S. should retain the ability to use millions of cluster munitions in its arsenal which have estimated failure rates of 5 to 20 percent.

Of course, any weapon, whether cluster munitions, landmines, or even poison gas, has some military utility. But anyone who has seen the indiscriminate devastation cluster munitions cause over a wide area understands the unacceptable threat they can pose to civilians. These are not the laser guided weapons the Pentagon showed destroying their targets during the invasion of Baghdad.

There is the insidious problem of cluster munitions that fail to explode as designed and remain as active duds, like landmines, until they are triggered by whoever comes into contact with them. Often it is an unsuspecting child, or a farmer. We saw that recently in Lebanon, and in Laos people are still being killed and maimed by U.S. cluster munitions left from the Vietnam War.

Current law prohibits U.S. sales, exports and transfers of cluster munitions that have a failure rate exceeding 1 percent. That law also requires any sale, export or transfer agreement to include a requirement that the cluster munitions will be used only against military targets and not in areas where civilians are known to be present.

Last year, the Pentagon announced that it would meet the failure rate requirement for U.S. use of cluster munitions in 2018. While a step forward, I do not believe we can justify continuing to use weapons that so often fail, so often kill and injure civilians, and which many of our allies have renounced. That is not the kind of leadership the world needs and expects from the United States.

Senator FEINSTEIN's and my bill would apply similar restrictions to the use of cluster munitions beginning immediately on the date of enactment. However, the bill does permit the President to waive the 1 percent requirement if he certifies that it is vital to protect the security of the United States. I urge the Pentagon to work with us by supporting this reasonable step.

I want to express my appreciation to all nations that have signed the treaty, and urge the Obama administration to review its policy on cluster munitions with a view toward putting the U.S. on a path to join the treaty as soon as possible. In the meantime, our legislation would go a long way toward putting the United States on that path.

There are some who dismissed the Cluster Munitions Convention as a pointless exercise, since it does not yet have the support of the United States and other major powers such as Russia, China, Pakistan, India, and Israel. These are some of the same critics of the Ottawa treaty banning antipersonnel landmines, which the U.S. and the other countries I named have also refused to sign. But that treaty has dramatically reduced the number of landmines produced, used, sold and stockpiled, and the number of mine victims has fallen sharply. Any government that contemplates using landmines today does so knowing that it will be condemned by the international community. I suspect it is only a matter of time before the same is true for cluster munitions.

It is important to note that the U.S. today has the technological ability to produce cluster munitions that would not be prohibited by the treaty. What is lacking is the political will to expend the necessary resources. There is no other excuse for continuing to use cluster munitions that cause unacceptable harm to civilians. I am committed to working in the Defense Appropriations Subcommittee to help secure the resources needed to make this new technology available.

I want to commend Senator FEINSTEIN who has shown real passion and persistence in raising this issue and seeking every opportunity to protect civilians from these indiscriminate weapons.

By Mr. LEAHY (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. FEINGOLD, Mr. WHITEHOUSE, and Mrs. MCCASKILL):

S. 417. A bill to enact a safe, fair, and responsible state secrets privilege Act; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am introducing the bipartisan State Secrets Protection Act. I am pleased that Senator KENNEDY, who had so much to do with developing this proposal last Congress is an original cosponsor of the bill along with Senators SPECTER, FEINGOLD, WHITEHOUSE and MCCASKILL. After a lengthy debate, this bill was reported by the Judiciary Committee last April.

The State secrets privilege is a common law doctrine that the Government can claim in court to prevent evidence that could harm national security from being publicly revealed. During the Bush administration, the State secrets privilege was used to avoid judicial review and skirt accountability by ending cases without consideration of the merits. It was used to stymie litigation at its very inception in cases alleging egregious Government misconduct, such as extraordinary rendition and warrantless eavesdropping on the communications of Americans.

The 2006 case of Khaled El-Masri, who was kidnapped and transported against his will to Afghanistan, where he was detained and tortured as part of the Bush administration's extraordinary rendition program, is one such example. He sued the government alleging unlawful detention and treatment. A district court judge dismissed the entire lawsuit after the Government invoked the State secrets privilege, solely on the basis of an ex parte declaration from the Director of the Central Intelligence Agency, and despite the fact that the Government had admitted that the rendition program exists. Mr. El-Masri has no other remedy. Our justice system is off limits to him, and no judge ever reviewed any of the actual evidence.

The State secrets privilege serves important goals where properly invoked. But there are serious consequences for litigants and for the American public when the privilege is used to terminate litigation alleging serious Government misconduct. For the aggrieved parties, it means that the courthouse doors are closed forever regardless of the severity of their injury. They will never have their day in court. For the American public, it means less accountability, because there will be no judicial scrutiny of improper actions of the executive, and no check or balance.

The State Secrets Protection Act will help guide the courts to balance the Government's interests in secrecy with accountability and the rights of citizens to seek judicial redress. The bill does not restrict the Government's ability to assert the privilege in appropriate cases. Rather, the bill would allow judges to look at the actual evidence the Government submits so that they, neutral judges, rather than self-interested executive branch officials, would render the ultimate decision whether the State secrets privilege should apply. This is consistent with the procedure for other privileges recognized in our courts.

We held a Committee hearing on this issue last year, and the appropriate use of this privilege remains an area of concern for me and for the cosponsors of this bill. In light of the pending cases where this privilege has been invoked, involving issues including torture, rendition and warrantless wiretapping, we can ill-afford to delay consideration of this important legislation. I hope all Senators will join us in supporting 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 placed in the RECORD, as follows:

S. 417

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 ''State Secrets Protection Act''.

SEC. 2. STATE SECRETS PROTECTION.

(a) IN GENERAL.—Title 28 of the United States Code is amended by adding after chapter 180, the following:

''CHAPTER 181—STATE SECRETS PROTECTION

''§ 4051. Definitions

''In this chapter—

''(1) the term 'evidence' means any document, witness testimony, discovery response, affidavit, object, or other material that could be admissible in court under the Federal Rules of Evidence or discoverable under the Federal Rules of Civil Procedure; and

''(2) the term 'state secret' refers to any information that, if disclosed publicly, would be reasonably likely to cause significant harm to the national defense or foreign relations of the United States.

''§ 4052. Rules governing procedures related to this chapter

''(a) DOCUMENTS.—A Federal court—

''(1) shall determine which filings, motions, and affidavits, or portions thereof, submitted under this chapter shall be submitted ex parte;

''(2) may order a party to provide a redacted, unclassified, or summary substitute of a filing, motion, or affidavit to other parties; and

''(3) shall make decisions under this subsection taking into consideration the interests of justice and national security.

''(b) HEARINGS.—

''(1) IN CAMERA HEARINGS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), all hearings under this chapter shall be conducted in camera.

''(B) EXCEPTION.—A court may not conduct a hearing under this chapter in camera based on the assertion of the state secrets privilege if the court determines that the hearing relates only to a question of law and does not present a risk of revealing state secrets.

''(2) EX PARTE HEARINGS.—A Federal court may conduct hearings or portions thereof ex parte if the court determines, following in camera review of the evidence, that the interests of justice and national security cannot adequately be protected through the measures described in subsections (c) and (d).

''(3) RECORD OF HEARINGS.—The court shall preserve the record of all hearings conducted under this chapter for use in the event of an appeal. The court shall seal all records to the extent necessary to protect national security.

''(c) ATTORNEY SECURITY CLEARANCES.—

''(1) IN GENERAL.—A Federal court shall, at the request of the United States, limit participation in hearings conducted under this chapter, or access to motions or affidavits submitted under this chapter, to attorneys with appropriate security clearances, if the court determines that limiting participation in that manner would serve the interests of national security. The court may also appoint a guardian ad litem with the necessary security clearances to represent any party for the purposes of any hearing conducted under this chapter.

''(2) STAYS.—During the pendency of an application for security clearance by an attorney representing a party in a hearing conducted under this chapter, the court may suspend proceedings if the court determines that such a suspension would serve the interests of justice.

''(3) COURT OVERSIGHT.—If the United States fails to provide a security clearance necessary to conduct a hearing under this chapter in a reasonable period of time, the court may review in camera and ex parte the reasons of the United States for denying or delaying the clearance to ensure that the United States is not withholding a security clearance from a particular attorney or class of attorneys for any reason other than protection of national security.

''(d) PROTECTIVE ORDERS.—A Federal court may issue a protective order governing any information or evidence disclosed or discussed at any hearing conducted under this chapter if the court determines that issuing such an order is necessary to protect national security.

''(e) OPINIONS AND ORDERS.—Any opinions or orders issued under this chapter may be issued under seal or in redacted versions if, and to the extent that, the court determines that such measure is necessary to protect national security.

''(f) SPECIAL MASTERS.—A Federal court may appoint a special master or other independent advisor who holds the necessary security clearances to assist the court in handling a matter subject to this chapter.

''§ 4053. Procedures for answering a complaint

''(a) INTERVENTION.—The United States may intervene in any civil action in order to protect information the Government determines may be subject to the state secrets privilege.

''(b) IMPERMISSIBLE AS GROUNDS FOR DISMISSAL PRIOR TO HEARINGS.—Except as provided in section 4055, the state secrets privilege shall not constitute grounds for dismissal of a case or claim. If a motion to dismiss or for summary judgment is based in whole or in part on the state secrets privilege, or may be affected by the assertion of the state secrets privilege, a ruling on that motion shall be deferred pending completion of the hearings provided under this chapter, unless the motion can be granted on grounds unrelated to, and unaffected by, the assertion of the state secrets privilege.

''(c) PLEADING STATE SECRETS.—In answering a complaint, if the United States or an officer or agency of the United States is a party to the litigation, the United States may plead the state secrets privilege in response to any allegation in any individual claim or counterclaim if the admission or denial of that allegation in that individual claim or counterclaim would itself divulge a state secret to another party or the public. If the United States has intervened in a civil action, it may assert the state secrets privilege in response to any allegation in any individual claim or counterclaim if the admission or denial by a party of that allegation in that individual claim or counterclaim would itself divulge a state secret to another party or the public. No adverse inference or admission shall be drawn from a pleading of state secrets in an answer to an item in a complaint.

''(d) SUPPORTING AFFIDAVIT.—In each instance in which the United States asserts the state secrets privilege in response to 1 or more claims, it shall provide the court with an affidavit signed by the head of the executive branch agency with responsibility for, and control over, the asserted state secrets explaining the factual basis for the assertion of the privilege and attesting that personal consideration was given to the assertion of the privilege. The duties of the head of an executive branch agency under this subsection may not be delegated.

''§ 4054. Procedures for determining whether evidence is protected from disclosure by the state secrets privilege

''(a) ASSERTING THE STATE SECRETS PRIVILEGE.—The United States may, in any civil action to which the United States is a party or in any other civil action before a Federal or State court, assert the state secrets privilege as a ground for withholding information or evidence in discovery or for preventing the disclosure of information through court filings or through the introduction of evidence.

''(b) SUPPORTING AFFIDAVIT.—In each instance in which the United States asserts the state secrets privilege with respect to an item of information or evidence, the United States shall provide the court with an affidavit signed by the head of the executive branch agency with responsibility for, and control over, the state secrets involved explaining the factual basis for the claim of privilege. The United States shall make public an unclassified version of the affidavit.

''(c) HEARING.—A Federal court shall conduct a hearing, consistent with the requirements of section 4052, to examine the items of evidence that the United States asserts are subject to the state secrets privilege, as well as any affidavit submitted by the United States in support of any assertion of the state secrets privilege, and to determine the validity of any assertion of the state secrets privilege made by the United States.

''(d) REVIEW OF EVIDENCE.—

''(1) SUBMISSION OF EVIDENCE.—In addition to the affidavit provided under subsection (b), and except as provided in paragraph (2) of this subsection, the United States shall make all evidence the United States claims is subject to the state secrets privilege available for the court to review, consistent with the requirements of section 4052, before any hearing conducted under this section.

''(2) SAMPLING IN CERTAIN CASES.—If the volume of evidence the United States asserts is protected by the state secrets privilege precludes a timely review of each item of evidence, or the court otherwise determines that a review of all of that evidence is not feasible, the court may substitute a sufficient sampling of the evidence if the court determines that there is no reasonable possibility that review of the additional evidence would change the determination on the privilege claim and the evidence reviewed is sufficient to enable to court to make the determination required under this section.

''(3) INDEX OF MATERIALS.—The United States shall provide the court with a manageable index of evidence it contends is subject to the state secrets privilege by formulating a system of itemizing and indexing that would correlate statements made in the affidavit provided under subsection (b) with portions of the evidence the United States asserts is subject to the state secrets privilege. The index shall be specific enough to afford the court an adequate foundation to review the basis of the invocation of the privilege by the United States.

''(e) DETERMINATIONS AS TO APPLICABILITY OF STATE SECRETS PRIVILEGE.—

''(1) IN GENERAL.—Except as provided in subsection (d)(2), as to each item of evidence that the United States asserts is protected by the state secrets privilege, the court shall review, consistent with the requirements of section 4052, the specific item of evidence to determine whether the claim of the United States is valid. An item of evidence is subject to the state secrets privilege if it contains a state secret, or there is no possible means of effectively segregating it from other evidence that contains a state secret.

''(2) ADMISSIBILITY AND DISCLOSURE.—

''(A) PRIVILEGED EVIDENCE.—If the court agrees that an item of evidence is subject to the state secrets privilege, that item shall not be disclosed or admissible as evidence.

''(B) NON-PRIVILEGED EVIDENCE.—If the court determines that an item of evidence is not subject to the state secrets privilege, the state secrets privilege does not prohibit the disclosure of that item to the opposing party or the admission of that item at trial, subject to the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

''(3) STANDARD OF REVIEW.—The court shall give substantial weight to an assertion by the United States relating to why public disclosure of an item of evidence would be reasonably likely to cause significant harm to the national defense or foreign relations of the United States. The court shall weigh the testimony of a Government expert in the same manner as the court weighs, and along with, any other expert testimony in the applicable case.

''(f) NON-PRIVILEGED SUBSTITUTE.—If the court finds that material evidence is subject to the state secrets privilege and it is possible to craft a non-privileged substitute for that privileged material evidence that provides a substantially equivalent opportunity to litigate the claim or defense as would that privileged material evidence, the court shall order the United States to provide such a substitute, which may consist of—

''(1) a summary of such privileged information;

''(2) a version of the evidence with privileged information redacted;

''(3) a statement admitting relevant facts that the privileged information would tend to prove; or

''(4) any other alternative as directed by the court in the interests of justice and protecting national security.

''(g) REFUSAL TO PROVIDE NON-PRIVILEGED SUBSTITUTE.—In a suit against the United States or an officer or agent of the Unites States acting in the official capacity of that officer or agent, if the court orders the United States to provide a non-privileged substitute for evidence in accordance with this section, and the United States fails to comply, the court shall resolve the disputed issue of fact or law to which the evidence pertains in the non-government party's favor.

''§ 4055. Procedures when evidence protected by the state secrets privilege is necessary for adjudication of a claim or counterclaim

''After reviewing all pertinent evidence, privileged and non-privileged, a Federal court may dismiss a claim or counterclaim on the basis of the state secrets privilege only if the court determines that—

''(1) it is impossible to create for privileged material evidence a non-privileged substitute under section 4054(f) that provides a substantially equivalent opportunity to litigate the claim or counterclaim as would that privileged material evidence;

''(2) dismissal of the claim or counterclaim would not harm national security; and

''(3) continuing with litigation of the claim or counterclaim in the absence of the privileged material evidence would substantially impair the ability of a party to pursue a valid defense to the claim or counterclaim.

''§ 4056. Interlocutory appeal

''(a) IN GENERAL.—The courts of appeal shall have jurisdiction of an appeal by any party from any interlocutory decision or order of a district court of the United States under this chapter.

''(b) APPEAL.—

''(1) IN GENERAL.—An appeal taken under this section either before or during trial shall be expedited by the court of appeals.

''(2) DURING TRIAL.—If an appeal is taken during trial, the district court shall adjourn the trial until the appeal is resolved and the court of appeals—

''(A) shall hear argument on appeal as expeditiously as possible after adjournment of the trial by the district court;

''(B) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

''(C) shall render its decision as expeditiously as possible after argument on appeal; and

''(D) may dispense with the issuance of a written opinion in rendering its decision.

''§ 4057. Security procedures

''(a) IN GENERAL.—The security procedures established under the Classified Information Procedures Act (18 U.S.C. App.) by the Chief Justice of the United States for the protection of classified information shall be used to protect against unauthorized disclosure of evidence protected by the state secrets privilege.

''(b) RULES.—The Chief Justice of the United States, in consultation with the Attorney General, the Director of National Intelligence, and the Secretary of Defense, may create additional rules or amend the rules to implement this chapter and shall submit any such additional rules or amendments to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate. Any such rules or amendments shall become effective 90 days after such submission, unless Congress provides otherwise. Rules and amendments shall comply with the letter and spirit of this chapter, and may include procedures concerning the role of magistrate judges and special masters in assisting courts in carrying out this chapter. The rules or amendments under this subsection may include procedures to ensure that a sufficient number of attorneys with appropriate security clearances are available in each of the judicial districts of the United States to serve as guardians ad litem under section 4052(c)(1).

''§ 4058. Reporting

''(a) ASSERTION OF STATE SECRETS PRIVILEGE.—

''(1) IN GENERAL.—The Attorney General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report on any case in which the United States asserts the state secrets privilege, not later than 30 calendar days after the date of such assertion.

''(2) CONTENTS.—Each report submitted under this subsection shall include any affidavit filed in support of the assertion of the state secrets privilege and the index required under section 4054(d)(2).

''(3) EVIDENCE.—Upon a request by any member of the Permanent Select Committee on Intelligence or the Committee on the Judiciary of the House of Representatives or the Select Committee on Intelligence or the Committee on the Judiciary of the Senate, the Attorney General shall provide to that member any item of evidence relating to which the United States has asserted the state secrets privilege.

''(4) PROTECTION OF INFORMATION.—An affidavit, index, or item of evidence provided under this subsection may be included in a classified annex or provided under any other appropriate security measures.

''(b) OPERATION AND EFFECTIVENESS.—

''(1) IN GENERAL.—The Attorney General shall deliver to the committees of Congress described in subsection (a) a report concerning the operation and effectiveness of this chapter and including suggested amendments to this chapter.

''(2) DEADLINE.—The Attorney General shall submit a report under paragraph (1) not later than 1 year after the date of enactment of this chapter, and every year there after until the date that is 3 years after that date of enactment. After the date that is 3 years after that date of enactment, the Attorney General shall submit a report under paragraph (1) as necessary.

''§ 4059. Rule of construction

''Nothing in this chapter—

''(1) is intended to supersede any further or additional limit on the state secrets privilege under any other provision of law; or

''(2) may be construed to preclude a court from dismissing a claim or counterclaim or entering judgment on grounds unrelated to, and unaffected by, the assertion of the state secrets privilege.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

181. State secrets protection 4051

SEC. 3. SEVERABILITY.

If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the amendments made by the Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 4. APPLICATION TO PENDING CASES.

The amendments made by this Act shall apply to any civil case pending on or after the date of enactment of this Act.

Mr. FEINGOLD. Mr. President, I am proud to join Senators LEAHY, SPECTER, and KENNEDY in introducing the State Secrets Protection Act of 2009. This bill establishes uniform procedures for courts to use when evaluating governmental assertions of the state secrets privilege in civil litigation. It takes an important step toward restoring the rule of law by ensuring that the privilege will be used only to protect true state secrets, and not as a means for the Government to avoid accountability for its actions.

In a democracy, the public should have the right to know what its government is doing. That should be the rule, and secrecy should be the rare exception, reserved for the very few cases in which the national security is truly at stake. Unfortunately, the Bush administration stood that presumption on its head, cloaking its actions in secrecy whenever possible and grudgingly submitting to public scrutiny only when it couldn't be avoided. The ''state secrets'' privilege was a favorite weapon in that administration's arsenal of secrecy.

None of us disputes that information may properly be withheld as a ''state secret'' when disclosing the information would cause grave damage to national security. The problem arises when the privilege is abused and invoked to shield Government wrongdoing. Indeed, that is exactly what happened the first time the Supreme Court recognized the privilege in 1953, in the case of United States v. Reynolds. The Government had been sued after a military aircraft crash killed nine people, and it invoked the ''state secrets'' privilege to shield an internal investigative report. Decades later, when the report was declassified, it revealed nothing that could fairly be characterized as a ''state secret'' but it did reveal faulty maintenance of the aircraft.

Abuses like these can be prevented, but only if the courts fulfill their responsibility to carefully review claims

of privilege. In the Reynolds case, no court actually looked at the supposedly privileged report. That simple step would have prevented the miscarriage of justice that ensued. Yet, despite the fact that courts have the acknowledged authority to order in camera review of the evidence, fewer than one third of courts have actually exercised that option when the Government has asserted the ''state secrets'' privilege. And a host of other tools available to the courts to evaluate and respond to claims of privilege have been employed inconsistently at best, resulting in a confused body of case law that preserves accountability in some cases while granting the government a ''get out of jail free'' card in others.

In the last Congress, Senators KENNEDY, SPECTER, and LEAHY introduced the State Secrets Protection Act to standardize the procedures courts use in cases where the Government asserts the ''state secrets'' privilege and to ensure adequate scrutiny of such claims. The bill was reported by the Judiciary Committee last April after extensive debate. Much of the credit for this legislation goes to Senator KENNEDY, whose unfailing commitment to the rule of law inspired both the concept and the particulars of this bill. I had the honor of working with him to develop this legislation, and it is a pleasure now to cosponsor its reintroduction, with Senator LEAHY as the lead sponsor.

The bill makes use of existing tools that are available to the courts when handling national security information. Perhaps the most fundamental of these is in camera review of the allegedly privileged evidence, which the bill requires. The idea here is simple: Determining what information the evidence contains is the threshold step in determining whether that evidence is privileged. This step is far too important to be left to a party with a built-in conflict of interest. Just as a court would never accept a private litigant's description of his or her evidence in lieu of the evidence itself, the court should not rely solely on the Government's description of the evidence when the Government has a clear interest in the outcome of the case.

That courts may examine sensitive national security information in camera is beyond any serious dispute. Since 1974, the Freedom of Information Act has allowed courts to engage in in camera review of any records that the Government claims are exempt from disclosure under the Act. Courts have also reviewed the most sensitive national security information in criminal cases, pursuant to the Classified Information Procedures Act. In fact, courts handle highly classified information on a regular basis. There is no legitimate justification for skipping this crucial step.

The bill also requires courts to hold in camera hearings on the question of whether the evidence is privileged. Based on the court's previous review of the evidence, the court may conduct the hearing ex parte i.e., without any participation by the plaintiff or the plaintiff's lawyers but only if the court finds that national security cannot adequately be protected through other means. For example, the court may limit attendance at the hearing to attorneys with the requisite clearances, or the court may appoint a guardian ad litem to represent the plaintiff's interests at the hearing. The bill thus preserves the adversarial process to the maximum extent consistent with protecting national security.

That's important, for at least two reasons. First, our justice system is premised on the notion of fairness, and that principle of fairness is undermined any time a party to litigation is excluded from the proceedings. But fairness isn't the only principle at stake. For all its complications and occasional inefficiencies, the adversarial process remains the best system for getting to the truth. If only one party is present at the hearing, the court is more likely to reach the wrong result it's as simple as that.

Taken together, the requirements of in camera review of the evidence and an in camera hearing ensure that the Government's claim of privilege is evaluated fairly and thoroughly. A fair, thorough review is necessary, because the bill makes absolutely clear that once evidence is found to be privileged, it cannot be disclosed, however great the plaintiff's need for the evidence may be. The interest of national security, once the court determines that interest is truly at stake, is given absolute protection.

That may mean the end of the lawsuit but it may not. As Congress recognized when it passed the Classified Information Procedures Act, courts have many tools at their disposal to move litigation forward even when some of the evidence cannot be disclosed. For example, courts can require the Government to submit non-privileged substitutes for the privileged evidence, such as summaries of the evidence, redacted versions, or admissions of certain facts. Under the bill, where the court finds that it would be feasible for the Government to craft a non-privileged substitute for privileged evidence, it may order the Government to do so. Again, however, the court can never compel the production of privileged evidence. If the Government refuses to craft a non-privileged substitute, the remedy is the same one that exists in the CIPA: the court may resolve the relevant issue of fact or law against the Government.

The bill does not allow courts to dismiss lawsuits at the pleadings stage based on a claim of ''subject matter privilege.'' As the Fourth Circuit has explained, ''subject matter privilege'' applies if the case is so pervaded with state secrets, it would be impossible to conduct the lawsuit without revealing them. Such cases undoubtedly exist. But until all of the relevant evidence is identified and the privilege determinations are made, any conclusion that a case will be pervaded with state secrets is simply a prediction. Only by proceeding through discovery and pre-trial hearings can that prediction be replaced with certainty. And this can be done without revealing a single state secret, since the bill allows privilege determinations to be made in camera and ex parte.

The bill does not change the ordinary rules of summary judgment. If a court determines, after discovery and pretrial hearings are completed, that the key evidence is privileged and the plaintiff cannot prove his or her case using non-privileged evidence, then the Government may move for summary judgment and prevail. The bill thus retains the concept of ''subject matter privilege'' it simply requires a more thorough testing of the claim.

Nor does the bill ever put the Government to the ''Hobson's choice'' of either revealing privileged evidence or conceding the lawsuit. Under the bill, even if the plaintiff has made out a prima facie case, the court can and must dismiss the lawsuit if the Government would need to disclose privileged evidence in order to present a valid defense. The Government's interests, as well as the national security, are thus scrupulously protected.

Finally, the bill facilitates congressional oversight by requiring the executive branch to share with the Judiciary and Intelligence Committees the documents it makes available to the courts: the Government affidavit explaining why the evidence is privileged, the index of privileged evidence, and, where requested, the evidence itself. This information will help Congress monitor the Government's use of the privilege and assess the need for any further legislation.

Perhaps even more important, it will provide a means of accountability in those cases where the privilege prevents a court from ruling on allegations of Government wrongdoing. The idea of simply letting such allegations go unaddressed should be profoundly troubling to anyone who respects the rule of law yet for eight years, the response of the Bush administration was little more than a shrug. This bill rejects such a cavalier attitude toward the rule of law. The citizens of this country should never again be told that there is simply no remedy for wrongs their Government has committed. In cases where the courts cannot provide that remedy, then Congress should step in and providing the necessary information to the relevant committees of Congress will enable that to happen.

I am pleased that both the new Attorney General, Eric Holder, and the nominee for Associate Attorney General, Thomas Perrelli, have indicated a willingness to review this bill and work with us on it. I hope that it will be possible to fashion legislation that the Administration can support. The public

deserves to have confidence that the state secrets privilege is not going to be used to cover up Government misconduct. This bill provides the courts a system for resolving claims of privilege that will inspire that confidence.

A country where the Government need not answer to allegations of wrongdoing is a country that has strayed dangerously far from the rule of law. We must ensure that the ''state secrets'' privilege does not become a license for the Government to evade the laws that we pass. This bill accomplishes that goal, while simultaneously providing the strongest of protections to those items of evidence that truly qualify as state secrets. I urge all of my colleagues to support the rule of law by supporting this legislation.

By Ms. KLOBUCHAR (for herself and Mr. HATCH):

S. 418. A bill to require secondary metal recycling agents to keep records of their transactions in order to deter individuals and enterprises engaged in the theft and interstate sale of stolen secondary metal, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HATCH. Mr. President, I rise today to introduce with my friend from Minnesota, Senator AMY KLOBUCHAR, the Secondary Metal Theft Prevention Act of 2009.

Once again, I am partnering with Senator KLOBUCHAR to combat metal theft in our country. Last Congress we introduced the Copper Theft Prevention Act of 2008, S. 3666, which focused solely on copper theft. Since then, after a series of meetings with industry stakeholders, we concluded that the bill would be more effective if it were expanded to address secondary metal thefts, including those involving copper.

There is no doubt that we are living in difficult economic times. As we witness the unfortunate job losses spreading across the country, I am mindful of those who are struggling to make ends meet. Unfortunately some, motivated by quick profits and a variety of vulnerable targets, are engaging in the fast-growing crime of metal theft.

On the surface, stealing precious metal, like copper, appears to be a relatively small theft. However, metal thieves compromise U.S. critical infrastructure by targeting electrical substations, cellular towers, telephone land lines, railroads, water wells, construction sites, and vacant homes—all for fast cash.

Some argue that there is no need for this legislation because metal is being traded at low prices. I disagree. As we know, the market shifts and prices will eventually increase as demand surges. Moreover, law enforcement officials confirm that thieves are only stealing more metal to offset current metal prices.

On September 15, 2008, the Federal Bureau of Investigation released an unclassified intelligence assessment entitled, Copper Thefts Threaten U.S. Critical Infrastructure.

This assessment states that ''thieves are typically individuals or organized groups who operate independently or in loose association with each other and commit thefts in conjunction with fencing activities and the sale of contraband. Organized groups of drug addicts, gang members, and metal thieves are conducting large scale thefts from electric utilities, warehouses, foreclosed and vacant properties, and oil well sites for tens of thousands of dollars in illicit proceeds per month.''

I am mindful of the hardworking scrap metal dealers in my home state. Recycling secondary metal not only generates revenue but is environmentally friendly and saves energy, it takes a lot less energy to melt down secondary metal and recycle it than it does to produce new metal.

Take for example the City Creek project in downtown Salt Lake City, Utah. It is my understanding that when the construction contractors tore down the downtown malls to make way for the 20-acre retail-office-residential complex, more than half of what came down was reused either in the City Creek development or somewhere else. Steel frames were sold as scrap metal, which was recycled and used for other purposes.

Utah metal recyclers deal with hundreds of people and thousands of pounds of metal on a regular basis. I imagine in some cases it is difficult to tell if the scrap metal is stolen, especially if a customer has, what appears to be, a legitimate story. I know that many of Utah's scrap metal dealers are not turning a blind eye to this problem. In fact, several metal recycling companies have partnered with local law enforcement and use a theft alert system to warn and watch for reported stolen items. I commend them for their efforts and hope that police, prosecutors, and members of the metal recycling industry continue to communicate and work together to combat metal theft along the Wasatch Front.

Yet on the Federal level, we need a baseline from which all states must operate. This is important because many states in the Union do not have metal theft laws and lure thieves across State lines. It should be noted that the proposed bill does not preempt states from enacting their own laws.

I believe the proposed legislation will help tighten-up how secondary metal transactions are performed across the country and, in return, send a clear message that metal theft will be met with serious consequences. The bill calls for enforcement by the Federal Trade Commission and gives state attorneys general the ability to bring a civil action to enforce the provisions of the legislation.

This bill also contains a ''Do Not Buy'' provision wherein specific items listed cannot be purchased by scrap metal dealers unless sellers establish, by written documentation, that they are authorized to sell the secondary metal in question.

Additionally, the bill requires scrap metal dealers to keep records of secondary metal purchases, including the name and address of the seller, the date of the transaction, the quantity and description of the secondary metal being purchased, an identifying number from a driver's license or other government-issued identification and, where possible, the make, model and tag number of the vehicle used to deliver the metal to the dealer.

Secondary metal dealers must maintain these records for a minimum of two years from the date of the transaction and make them available to law enforcement agencies for use in tracking down and prosecuting secondary metal theft crimes.

There is real concern about how easy it is to access cash in scrap metal transactions. For this reason, the bill requires that checks will be the method of payment for transactions over $75. While that may sound low for some, it is important to recognize that it takes a lot of secondary metal to obtain even $75 in return.

To discourage multiple cash transactions from one seller, the bill limits metal dealers from paying cash to the same seller within a 48-hour period. The intent of this provision is not to be a hardship on the honest seller. The purpose is to dissuade some sellers from going around the bill's check payment requirement by making multiple cash transactions. Again, we must remove the incentives for thieves to access fast cash.

I am aware that some scrap metal dealers do not want to issue checks for fear of check fraud or additional transactional costs. Senator KLOBUCHAR and I have given careful consideration to these concerns and have consulted law enforcement officials to determine how best to proceed. We believe that checks are a valuable benefit to law enforcement because they provide trace evidence by creating a paper trail, a signature, and possibly even a fingerprint.

Let me conclude my remarks by saying that considering our country's serious economic situation, I believe we need to ensure that our critical infrastructure is not viewed as a treasure trove for desperate metal thieves.

I am committed to moving this bill forward and hope that my colleagues will join me in perfecting this bill as it moves through the legislative process.

Mr. President, I ask unanimous consent that the support material be printed in the RECORD.

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

COPPER THEFTS THREATEN US CRITICAL INFRASTRUCTURE

SCOPE NOTE

The assessment highlights copper theft and its impact on US critical infrastructure. Copper thefts are occurring throughout the United States and are perpetrated by individuals and organized groups motivated by

quick profits and a variety of vulnerable targets. Information for the assessment was developed through May 2008 from the following sources: FBI and Open sources.

SOURCE AND CONFIDENCE STATEMENT

Reporting relative to the impact of copper thefts on US critical infrastructure was derived from the FBI and open sources. The FBI has high confidence that the FBI source reporting used to prepare the assessment is reliable. The FBI also has high confidence in the reliability of information derived from open-source reporting.

KEY JUDGMENTS

Copper thieves are threatening US critical infrastructure by targeting electrical substations, cellular towers, telephone land lines, railroads, water wells, construction sites, and vacant homes for lucrative profits. The theft of copper from these targets disrupts the flow of electricity, telecommunications, transportation, water supply, heating, and security and emergency services and presents a risk to both public safety and national security.

Copper thieves are typically individuals or organized groups who operate independently or in loose association with each other and commit thefts in conjunction with fencing activities and the sale of contraband. Organized groups of drug addicts, gang members, and metal thieves are conducting large scale thefts from electric utilities. warehouses, foreclosed or vacant properties, and oil well sites for tens of thousands of dollars in illicit proceeds per month.

The demand for copper from developing nations such as China and India is creating a robust international copper trade. Copper thieves are exploiting this demand and the resulting price surge by stealing and selling the metal for high profits to recyclers across the United States. As the global supply of copper continues to tighten, the market for illicit copper will likely increase.

COPPER THEFTS THREATEN US CRITICAL INFRASTRUCTURE

Copper thieves are threatening US critical infrastructure by targeting electrical substations, cellular towers, telephone land lines, railroads, water wells, construction sites, and vacant homes for lucrative profits. Copper thefts from these targets have increased since 2006; and they are currently disrupting the flow of electricity, telecommunications, transportation, water supply, heating, and security and emergency services, and present a risk to both public safety and national security.

According to open-source reporting, on 4 April 2008, five tornado warning sirens in the Jackson, Mississippi, area did not warn residents of an approaching tornado because copper thieves had stripped the sirens of copper wiring, thus rendering them inoperable.

According to open-source reporting, on 20 March 2008, nearly 4,000 residents in Polk County, Florida, were left without power after copper wire was stripped from an active transformer at a Tampa Electric Company (TECO) power facility. Monetary losses to TECO were approximately $500,000.

According to agricultural industry reporting, as of March 2007, farmers in Pinal County, Arizona, were experiencing a copper theft epidemic as perpetrators stripped copper from their water irrigation wells and pumps resulting in the loss of crops and high replacement costs. Pinal County's infrastructure loss due to copper theft was $10 million.

CRIMINAL GROUPS INVOLVED IN COPPER THEFTS

Copper thieves are typically individuals or organized groups who operate independently or in loose association with each other and commit thefts in conjunction with fencing activities and the sale of contraband. Organized groups of drug addicts, gang members, and metal thieves are conducting large scale thefts from electric utilities, warehouses, foreclosed and vacant properties, and oil well sites for tens of thousands of dollars in illicit proceeds per month.

According to open sources, as recently as April 2008, highly organized theft rings specializing in copper theft from houses and warehouses were operating in Minneapolis, Minnesota. These rings or gangs hit several houses per day, yielding more than $20,000 in profits per month. The targets were most often foreclosed homes.

Open-source reporting from March 2008 indicates that an organized copper theft ring used the Cuyahoga County Sheriff's foreclosure lists to pinpoint targets in Cleveland, Ohio. Perpetrators had 200 pounds of stolen copper in their van, road maps, and tools. Three additional perpetrators were found to be using the US Department of Housing and Urban Development's list of mortgage and bank foreclosures to target residences in Cleveland, South Euclid, Cleveland Heights, and other cities in Ohio.

GLOBAL DEMAND INCREASING

China, India, and other developing nations are driving the demand for raw materials such as copper and creating a robust international trade. Copper thieves are receiving cash from recyclers who often fill orders for commercial scrap dealers. Recycled copper flows from these dealers to smelters, mills, foundries, ingot makers, powder plants, and other industries to be re-used in the United States or for supplying the international raw materials demand. As the global supply of copper continues to tighten, the market for illicit copper will likely increase.

Open-source reporting from February 2007 indicates that the global copper supply tightened due to a landslide at the Freeport-McMoran Copper and Gold mine in Grasberg, Indonesia in October 2003 and a worker's strike at the El Abra copper mine in Clama, Chile in November 2004. These events contributed to copper production shortfalls and led to an increase in recycling, which in turn created a market for copper.

Open-source reporting from October 2006 indicated that the demand for copper from China increased substantially due to the construction of facilities for the 2008 Olympics.

Open-source reporting indicated that from January 2001 to March 2008, the price of copper increased more than 500 percent. This has prompted unscrupulous and sometimes unwitting independent and commercial scrap metal dealers to pay record prices for copper, regardless of its origin, making the material a more attractive target for theft.

OUTLOOK

The global demand for copper, combined with the economic and home foreclosure crisis, is creating numerous opportunities for copper-theft perpetrators to exploit copper-rich targets. Organized copper theft rings may increasingly target vacant or foreclosed homes as they are a lucrative source of unattended copper inventory. Current economic conditions, such as the rising cost of gasoline, food, and consumer goods, the declining housing market, the ease through which copper is exchanged for cash, and the lack of a significant deterrent effect, make it likely that copper thefts will remain a lucrative financial resource for criminals.

Industry officials have taken some countermeasures to address the copper theft problem. These include the installment of physical and technological security measures, increased collaboration among the various industry sectors, and the development of law enforcement partnerships. Many states are also taking countermeasures by enacting or enhancing legislation regulating the scrap industry—to include increased recordkeeping and penalties for copper theft and noncompliant scrap dealers However, there are limited resources available to enforce these laws, and a very small percentage of perpetrators are arrested and convicted. Additionally, as copper thefts are typically addressed as misdemeanors, those individuals convicted pay relatively low fines and serve short prison terms

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 31—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN submitted the following resolution; from the Committee on Energy and Natural-Resources; which was referred to the Committee on Rules and Administration:

S. RES. 31

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 2009, through September 30, 2009; October 1, 2009, through September 30, 2010; and October 1, 2010, through February 28, 2011, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period March 1, 2009, I through September 30, 2009, under this resolution shall not exceed $3,833,400.

(b) For the period October 1, 2009, through September 30, 2010, expenses of the committee under this resolution shall not exceed $6,740,569.

(c) For the period October 1, 2010, through February 28, 2011, expenses of the committee under this resolution shall not exceed $2,870,923.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2011, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SENATE RESOLUTION 32—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LIEBERMAN submitted the following resolution; from the Committee on Homeland Security and Governmental Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 32

Resolved,

SECTION 1. COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules and S. Res. 445 (108th Congress), including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Homeland Security and Governmental Affairs (referred to in this resolution as the ''committee'') is authorized from March 1, 2009, through February 28, 2011, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2009.—The expenses of the committee for the period March 1, 2009, through September 30, 2009, under this section shall not exceed $6,742,824, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2010 PERIOD.—The expenses of the committee for the period October 1, 2009, through September 30, 2010, under this section shall not exceed $11,856,527, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2011.—For the period October 1, 2010, through February 28, 2011, expenses of the committee under this section shall not exceed $5,049,927, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 2. REPORTING LEGISLATION.

The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2009.

SEC. 3. EXPENSES; AGENCY CONTRIBUTIONS; AND INVESTIGATIONS.

(a) EXPENSES OF THE COMMITTEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required for—

(A) the disbursement of salaries of employees of the committee who are paid at an annual rate;

(B) the payment of telecommunications expenses provided by the Office of the Sergeant at Arms and Doorkeeper;

(C) the payment of stationery supplies purchased through the Keeper of Stationery;

(D) payments to the Postmaster of the Senate;

(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;

(F) the payment of Senate Recording and Photographic Services; or

(G) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

(b) AGENCY CONTRIBUTIONS.—There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee for the period March 1, 2009, through September 30, 2009, for the period October 1, 2009, through September 30, 2010, and for the period October 1, 2010, through February 28, 2011, to be paid from the appropriations account for 'Expenses of Inquiries and Investigations' of the Senate.

(c) INVESTIGATIONS.—

(1) IN GENERAL.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES.—In carrying out the duties provided in paragraph (1), the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY.—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 2009, through February 28, 2011, is authorized, in its, his, her, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES.—Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY.—All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 89, agreed to March 1, 2007 (110th Congress), are authorized to continue.

SENATE RESOLUTION 33—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

Mr. AKAKA submitted the following resolution; from the Committee on Veterans' Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 33

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 2009, through September 30, 2009; October 1, 2009, through September 30, 2010 and October 1, 2010, through February 28, 2011, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2009, through September 30, 2009, under this resolution shall not exceed $1,565,089 of which amount (1) not to exceed $59,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $12,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2009, through September 30, 2010, expenses of the committee under this resolution shall not exceed $2,752,088 of which amount (1) not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(I) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2010, through February 28, 2011, expenses of the committee under this resolution shall not exceed $1,172,184, of which amount (1) not to exceed $42,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,334 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendation for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2009, and February 28, 2010, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for (1) the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2009, through September 30, 2009; October 1, 2009, through September 30, 2010; and October 1, 2010, through February 28, 2011, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 34—AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mrs. FEINSTEIN submitted the following resolution; from the Select Committee on Intelligence; which was referred to the Committee on Rules and Administration:

S. RES. 34

Resolved, That, in carrying out its powers, duties, and functions under Senate Resolution 400, agreed to May 19, 1976 (94th Congress), as amended by Senate Resolution 445, agreed to October 9, 2004 (108th Congress), in accordance with its jurisdiction under section 3 and section 17 of such Senate Resolution 400, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of such Senate Resolution 400, the Select Committee on Intelligence is authorized from March 1, 2009, through September 30, 2009; October 1, 2009, through September 30, 2010; and October 1, 2010, through February 28, 2011, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2a. The expenses of the committee for the period March 1, 2009, through September 30, 2009, under this resolution shall not exceed $4,151,023, of which amount (1) not to exceed $37,917 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,167 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2009, through September 30, 2010, expenses for the committee under this resolution shall not exceed $7,298,438, of which amount (1) not to exceed $65,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2010, through February 28, 2011, expenses of the committee under this resolution shall not exceed $3,108,302, of which amount (1) not to exceed $27,083 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $833 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2011.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2009 through September 30, 2009; October 1, 2009, through September 30, 2010; and October 1, 2010,

through February 28, 2011, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 35—HONORING MIAMI UNIVERSITY FOR ITS 200 YEARS OF COMMITMENT TO PUBLIC HIGHER EDUCATION

Mr. VOINOVICH (for himself and Mr. BROWN) submitted the following resolution; which was considered and agreed to:

S. RES. 35

Whereas article III of the Northwest Ordinance, enacted by the Second Continental Congress in 1787, states that: ''Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.'';

Whereas Miami University was chartered on February 17, 1809;

Whereas Miami University is the Nation's tenth oldest public institution of higher learning;

Whereas Miami University's motto is ''Prodesse Quam Conspici'', meaning, ''to accomplish without being conspicuous'';

Whereas, former Poet Laureate Robert Frost once referred to Miami University as ''the most beautiful college there is'';

Whereas Miami University is the birthplace of the ''McGuffey Eclectic Readers'', written by William Holmes McGuffey, who was known as ''School Master to the Nation'' and who wrote and complied the first 4 such readers while a Miami University faculty member;

Whereas Miami University is cited annually by national college rankings as being one of the Nation's best values among public universities;

Whereas Miami University is a university committed to empowering its students, faculty, and staff to become engaged citizens who use their knowledge and skills with integrity and compassion to improve the future of our global society;

Whereas Miami University has continued to fulfill its mission by attracting some of the Nation's brightest faculty, staff, and students;

Whereas Miami University consistently ranks among the top 25 colleges and universities in the Nation for the number of undergraduate students who study abroad;

Whereas Miami University has a graduation rate that exceeds the national averages for undergraduates, students of color, and athletes;

Whereas Miami University is known as the ''Mother of Fraternities'', as it is the Alpha Chapter for 5 National Greek organizations: Beta Theta Pi, Sigma Chi, Phi Delta Theta, Phi Kappa Tau, and Delta Zeta;

Whereas Miami University has more than 150,000 living alumni who reside in every State in the Nation and numerous countries throughout the world, where they contribute significantly to their local and global communities;

Whereas Miami University ranks forty-fourth among all schools for producing Peace Corps volunteers since the inception of the Peace Corps and is ranked seventh on the Peace Corps' 2009 list of the top 25 volunteer-producing, medium-sized schools in the Nation, with 39 alumni currently serving as volunteers and a total of 809 Miami alumni having served as volunteers since the inception of the Peace Corps in 1961;

Whereas Miami University alumni have a history of service to the United States and include a President of the United States, the Honorable Benjamin Harrison; 9 United States Senators, including one sitting Senator, the Honorable Maria Cantwell of Washington; 31 United States Representatives, including two sitting Members, the Honorable Paul Ryan of Wisconsin and the Honorable Steve Driehaus of Ohio, and a former Speaker of the House; the parents of a First Lady; the grandparents of a President; 6 Governors; 11 United States Generals; 6 United States Ministers to foreign governments; and 1 United States Ambassador;

Whereas Miami University's alumni include 27 college presidents;

Whereas Miami University has enriched our Nation in the arts, humanities, and sciences through students and alumni who have reached the pinnacle of their professions, such as a United States Poet Laureate, Pulitzer Prize winners, a National Teacher of the Year, National Institutes of Health Fellows, National Science Foundation award recipients, National Endowment of the Arts awardees, and renowned journalists;

Whereas Miami University is known as the ''Cradle of Coaches'' for the unparalleled number of nationally prominent collegiate and professional coaches it has produced, 18 of whom have been recognized as national coaches of the year, including Paul Brown (Cleveland Browns), Walter ''Smokey'' Alston (Brooklyn/Los Angeles Dodgers), Woody Hayes (Ohio State University), Bo Schembechler (University of Michigan), and Vicki Korn (Miami University);

Whereas Miami University has created a ''Culture of Champions'', an environment that teaches student athletes to excel in their chosen endeavors, and which led students to earn distinctions that include a National Football League Rookie of the Year, National Football League Super Bowl Champions, National Basketball Association World Champions, National Hockey League Stanley Cup Champions, Major League Baseball World Series Champions, and Olympic gold medalists;

Whereas Miami University has contributed to the economic growth of the United States through the education of men and women who have gone on to lead some of our most august corporations such as AT&T, Proctor & Gamble, the J.M. Smucker Company, and United Parcel Service of America; and

Whereas Miami University is the largest employer in Butler County, Ohio, with an economic impact of over $1,000,000,000 per year to the State of Ohio: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Miami University on the momentous occasion of the university's 200th anniversary;

(2) expresses its best wishes for Miami University's continued success; and

(3) requests that the Secretary of the Senate transmit an official copy of this resolution to Miami University for appropriate display.

SENATE RESOLUTION 36—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID (for Mr. KENNEDY) submitted the following resolution; from the Committee on Health, Education, Labor, and Pensions; which was referred to the Committee on Rules and Administration:

S. RES. 36

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Health, Education, Labor, and Pensions is authorized from March 1, 2009 through September 30, 2009; October 1, 2009, through September 30, 2010, and October 1, 2010, through February 28, 2011, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period March 1, 2009, through September 30, 2009, under this resolution shall not exceed $5,973,747 of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $25,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2009, through September 30, 2010, expenses of the committee under this resolution shall not exceed $10,503,951 of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $25,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period of October 1, 2010, through February 28, 2011, expenses of the committee under this resolution shall not exceed $4,473,755 of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $25,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together I with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2010 and February 28, 2011, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2009, through September 30, 2009; October 1, 2009, through September 30, 2010; and October 1, 2010, through February 28, 2011, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 37—A BILL CALLING ON OFFICIALS OF THE GOVERNMENT OF BRAZIL AND THE FEDERAL COURTS OF BRAZIL TO COMPLY WITH THE REQUIREMENTS OF THE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION AND TO ASSIST IN THE SAFE RETURN OF SEAN GOLDMAN TO HIS FATHER, DAVID GOLDMAN

Mr. LAUTENBERG submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 37

Whereas Sean Goldman is the son of David Goldman and Bruna Goldman, and is a United States citizen and a resident of Tinton Falls, New Jersey;

Whereas Bruna Goldman took Sean Goldman to Brazil on June 16, 2004;

Whereas, after Bruna and Sean Goldman arrived in Brazil, Bruna Goldman informed David Goldman that she would remain permanently in Brazil and would not return Sean Goldman to David Goldman in New Jersey;

Whereas, on August 26, 2004, the Superior Court of New Jersey issued a ruling awarding David Goldman physical and legal custody of Sean Goldman and ordering that Sean Goldman be immediately returned to the United States;

Whereas David Goldman initiated judicial proceedings in the Federal Court of Rio de Janeiro, under the Convention on the Civil Aspects of International Child Abduction, done at the Hague October 25, 1980 (TIAS 11670) (the ''Convention''), to which both the United States and Brazil are parties;

Whereas the Convention requires that a child who is a habitual resident of a country that is a party to the Convention, and who has been removed from or retained in a country that is also a party to the Convention in violation of the custodial rights of a parent of that child, be returned to the country of habitual residence;

Whereas, despite the petition filed in the Federal Court of Rio de Janeiro by David Goldman for the return of his child, less than one year after Sean Goldman was taken to Brazil, David Goldman was prevented from exercising his legal custody of Sean Goldman by rulings of the Federal Regional Court and the 3rd Chamber of the Superior Court of Justice of Brazil;

Whereas Bruna Goldman passed away in August 2008, and her new husband filed a petition to replace the name of David Goldman with his own name on the birth certificate of Sean Goldman;

Whereas the new husband of Bruna Goldman filed a petition for custody of Sean Goldman with the 2nd Family Court of Brazil on August 28, 2008;

Whereas the 2nd Family Court of Brazil granted temporary custody to the new husband of Bruna Goldman, despite specific provisions in the Convention that prohibit action by a family court while a case brought under the Convention is pending;

Whereas Sean Goldman remains in the temporary custody of the new husband of Bruna Goldman;

Whereas David Goldman traveled to Rio de Janeiro, Brazil, in October 2008 for court-approved visitation with Sean Goldman;

Whereas the new husband of Bruna Goldman failed to present Sean Goldman for such visitation;

Whereas the Convention requires the Government of Brazil to ''take all appropriate measures to secure within [its territory] the implementation of the objects of the Convention'' and ''to use the most expeditious procedures available'';

Whereas the Federal Court of Rio de Janeiro has failed to comply with the obligations of the Government of Brazil under article 11 of the Convention by failing to expeditiously adjudicate the petition of David Goldman under the Convention;

Whereas it is customary under international law to adjudicate a petition under the Convention within six weeks;

Whereas the Department of State reported in the 2008 report on compliance with the Convention, as required under section 2803 of the Foreign Affairs Reform and Restructuring Act of 1998 (42 U.S.C. 11611), that the judicial authorities of Brazil ''continued to demonstrate patterns of noncompliance with the Convention'';

Whereas the Special Secretariat for Human Rights of the Presidency of the Republic of Brazil, the central authority for carrying out the Convention in Brazil, wrote to the Office of the Attorney General of Brazil to express concern with the manner in which the 2d Family Court of Brazil conducted the case of Sean Goldman and to state that the issuance of temporary custody rights by the 2d Family Court of Brazil was a violation of the Convention;

Whereas Sean Goldman is being deprived of his rightful opportunity to live with and be raised by his biological father, David Goldman; and

Whereas it is consistent with international law that Sean Goldman be reunited with his father, David Goldman, in New Jersey: Now, therefore, be it

Resolved, That the Senate calls on officials of the Government of Brazil and the federal courts of Brazil—

(1) to fulfill the obligations of Brazil under the Convention on the Civil Aspects of International Child Abduction, done at the Hague October 25, 1980 (TIAS 11670); and

(2) to assist in the safe return of Sean Goldman to his father, David Goldman, in the United States.

SENATE CONCURRENT RESOLUTION 6—EXPRESSING THE SENSE OF CONGRESS THAT NATIONAL HEALTH CARE REFORM SHOULD ENSURE THAT THE HEALTH CARE NEEDS OF WOMEN AND OF ALL INDIVIDUALS IN THE UNITED STATES ARE MET

Ms. STABENOW (for herself, Ms. MIKULSKI, Mrs. MURRAY, and Mr. SANDERS) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 6

Whereas women often make health care decisions for themselves and their families;

Whereas women have expressed a desire to have affordable health care on which they can depend throughout their lives and through life transitions, including starting a family, changing jobs, working part-time or full-time, divorce, caring for an elderly or sick family member, having a major disease, and retirement;

Whereas women with good health care coverage worry about maintaining such coverage and keeping their health care providers;

Whereas women are more likely than men to seek essential preventive and routine care, to have a chronic health condition, and to take a prescription drug on a daily basis;

Whereas women pay 68 percent more than men for out-of-pocket medical costs, due in large part to reproductive health care needs;

Whereas approximately 53 percent of underinsured individuals, and 68 percent of uninsured individuals, forgo needed care and approximately 45 percent of underinsured individuals, and 51 percent of uninsured individuals, report difficulty paying medical bills;

Whereas in 2004, 1 in 6 women with individual health care coverage reported that they postponed, or went without, needed health care because they could not afford such health care;

Whereas high-deductible health insurance plans often are marketed to young women as an inexpensive health care coverage option, but such plans often fail to cover pregnancy-related care, the most expensive health care event most young families face and the leading cause of hospital stays for young women;

Whereas in 2007, 42 percent of the under-65 population in the United States, approximately 75,000,000 adults, had either no insurance or inadequate insurance, up from 35 percent in 2003;

Whereas nearly 16 percent of people in the United States (approximately 47,000,000 people) are uninsured, including 18 percent of adult women aged 18 to 64 (approximately 17,000,000 women) and 12 percent of children (approximately 9,000,000 children);

Whereas the Institute of Medicine estimated that, in 2000, lack of health care coverage resulted in 18,000 excess deaths in the United States (a number that the Urban Institute estimated grew to 22,000 by 2006) and estimated that acquiring health insurance reduces mortality rates for previously uninsured individuals by 10 to 15 percent;

Whereas women rely on women's health care providers throughout their lives, for comprehensive primary and preventive care, surgical care, and treatment and management of both acute and long-term health problems;

Whereas a ''medical home'' should ensure each woman direct access to women's health care providers and care coordination throughout her lifetime;

Whereas uninsured women with breast cancer are 30 to 50 percent more likely than insured women with breast cancer to die from the disease, and uninsured women are 3 times less likely than insured women to have had a Pap test in the last 3 years, putting uninsured women at a 60 percent greater risk of late-stage cervical cancer;

Whereas 13 percent of all pregnant women are uninsured, making them less likely to seek prenatal care in the first trimester of their pregnancies, less likely to receive the optimal number of prenatal health care visits during their pregnancies, and 31 percent more likely to experience an adverse health outcome after giving birth;

Whereas the lack, or inadequate receipt, of prenatal care is associated with pregnancy-related mortality 2 to 3 times higher, and infant mortality 6 times higher, than that of women receiving early prenatal care, and also is associated with an increased risk of low birth weight and preterm birth;

Whereas heart disease is the leading cause of death for both women and men, but women are less likely than men to receive

lifestyle counseling, diagnostic and therapeutic procedures, and cardiac rehabilitation and are more likely to die or have a second heart attack, demonstrating inequalities between women and men in access to health care;

Whereas persisting health care disparities also are evident in that Hispanic and Native American women and children are 3 times as likely, and African-American women are nearly twice as likely, to be uninsured than non-Hispanic white women;

Whereas in 2005, nearly 80 percent of the female population with HIV/AIDS was African-American or Hispanic, and HIV/AIDS incidence rates are dramatically higher for African-American and Hispanic women and adolescents (60.2 and 15.8 per 100,000, respectively) than for white women and adolescents (3.0 per 100,000);

Whereas women are less likely than men to receive health insurance through their employers and more likely than men to be insured as a dependent, making them more vulnerable than men to insurance loss in the event of divorce or death of a spouse;

Whereas 64 percent of uninsured women are in families with at least 1 adult working full-time;

Whereas health care costs are increasingly unaffordable for working families and employers, with employer-sponsored health insurance premiums having increased 87 percent between 2000 and 2006;

Whereas the approximately 9,100,000 women-owned businesses in the United States employ 27,500,000 individuals, contribute $3,600,000,000,000 to the economy, and face serious obstacles in obtaining affordable health care coverage for their employees;

Whereas the lack of affordable health care coverage creates barriers for women who want to change jobs or create their own small businesses;

Whereas health care professionals, a significant portion of which are women, have a stake in achieving reform that allows them to provide the highest quality of care for their patients;

Whereas 56 percent of all health caregivers are women;

Whereas although the United States spends twice as much on health care as the median industrialized nation, among the 30 developed nations of the Organisation for Economic Co-operation and Development, the health care system of the United States ranks near the bottom on most measures of health status and ranks 37th in overall health performance among 191 nations; and

Whereas the Institute of Medicine estimates that the cost of achieving full health insurance coverage in the United States would be less than the loss in economic productivity from existing coverage gaps: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commits to passing, not later than 18 months after the adoption of this resolution by Congress, legislation that guarantees health care for women and all individuals and establishes coverage that enables women to attain good health that they can maintain during their reproductive years and throughout their lives and that—

(A) recognizes the special role that women play as health care consumers, caregivers, and providers;

(B) guarantees a level of benefits and care, including comprehensive reproductive health care, pregnancy-related care, and infant care, that is necessary to achieve and maintain good health throughout a woman's lifetime and lessen the burdens caused by poor health;

(C) promotes primary and preventive care, including family planning, contraceptive equity, and care continuity;

(D) provides a choice of public and private health insurance plans and direct access to a choice of health care providers to ensure continuity of coverage and a delivery system that meets the needs of women;

(E) eliminates health disparities in coverage, treatment, and outcomes on the basis of gender, culture, race, ethnicity, socioeconomic status, health status, and sexual orientation;

(F) shares responsibility for financing among employers, individuals, and the government, while taking into account the needs of small businesses;

(G) ensures that access to health care is affordable;

(H) enhances health care quality and patient safety;

(I) ensures a sufficient supply of qualified providers through expanded medical and public health education and adequate reimbursement;

(J) ensures every woman access to a women's ''medical home'', including direct access to women's health care providers and care coordination, throughout each woman's lifetime;

(K) recognizes and promotes the role of women as providers of health care; and

(L) promotes administrative efficiency, reduces unnecessary paperwork, and is easy for health care consumers and providers to use; and

(2) urges the President to sign such legislation into law.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The hearing will be held on Thursday, February 26, 2009, at 2:15 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to provide recommendations for reducing energy consumption in buildings through improved implementation of authorized DOE programs and through other innovative federal energy efficiency policies and programs.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Rosemarie_Calabro@energy.senate.gov.

For further information, please contact Deborah Estes at (202) 224–5360 or Rosemarie Calabro at (202) 224–5039.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, February 11, 2009, at 11:30 a.m., in room SD366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 11, 2009, at 2:30 p.m., to hold a roundtable entitled ''Foreign Policy Implications of the Global Economic Crisis.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Wednesday, February 11, 2009, at 5 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Ms. STABENOW. 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 Wednesday, February 11, 2009, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Ms. STABENOW. 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 a hearing entitled ''The Need for Increased Fraud Enforcement in the Wake of the Economic Downturn'' on Wednesday, February 11, 2009, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building.

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

COMMITTEE ON RULES AND ADMINISTRATION

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, February 11, 2009, at 10:30 a.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Ms. STABENOW. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Wednesday, February 11, 2009, to conduct a hearing to review veterans' disability compensation and the appeals process. The Committee will meet in 418 Russell Senate Office Building, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. STABENOW. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 11, 2009, at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Tom Edwards, a Secret Service fellow in my office, be granted floor privileges during the consideration of the nomination of Mr. William J. Lynn, III, to be the Deputy Secretary of Defense.

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

HONORING MIAMI UNIVERSITY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 35, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 35) honoring Miami University for its 200 years of commitment to public higher education.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 35) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 35

Whereas article III of the Northwest Ordinance, enacted by the Second Continental Congress in 1787, states that: ''Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.'';

Whereas Miami University was chartered on February 17, 1809;

Whereas Miami University is the Nation's tenth oldest public institution of higher learning;

Whereas Miami University's motto is ''Prodesse Quam Conspici'', meaning, ''to accomplish without being conspicuous'';

Whereas, former Poet Laureate Robert Frost once referred to Miami University as ''the most beautiful college there is'';

Whereas Miami University is the birthplace of the ''McGuffey Eclectic Readers'', written by William Holmes McGuffey, who was known as ''School Master to the Nation'' and who wrote and complied the first 4 such readers while a Miami University faculty member;

Whereas Miami University is cited annually by national college rankings as being one of the Nation's best values among public universities;

Whereas Miami University is a university committed to empowering its students, faculty, and staff to become engaged citizens who use their knowledge and skills with integrity and compassion to improve the future of our global society;

Whereas Miami University has continued to fulfill its mission by attracting some of the Nation's brightest faculty, staff, and students;

Whereas Miami University consistently ranks among the top 25 colleges and universities in the Nation for the number of undergraduate students who study abroad;

Whereas Miami University has a graduation rate that exceeds the national averages for undergraduates, students of color, and athletes;

Whereas Miami University is known as the ''Mother of Fraternities'', as it is the Alpha Chapter for 5 National Greek organizations: Beta Theta Pi, Sigma Chi, Phi Delta Theta, Phi Kappa Tau, and Delta Zeta;

Whereas Miami University has more than 150,000 living alumni who reside in every State in the Nation and numerous countries throughout the world, where they contribute significantly to their local and global communities;

Whereas Miami University ranks forty-fourth among all schools for producing Peace Corps volunteers since the inception of the Peace Corps and is ranked seventh on the Peace Corps' 2009 list of the top 25 volunteer-producing, medium-sized schools in the Nation, with 39 alumni currently serving as volunteers and a total of 809 Miami alumni having served as volunteers since the inception of the Peace Corps in 1961;

Whereas Miami University alumni have a history of service to the United States and include a President of the United States, the Honorable Benjamin Harrison; 9 United States Senators, including one sitting Senator, the Honorable Maria Cantwell of Washington; 31 United States Representatives, including two sitting Members, the Honorable Paul Ryan of Wisconsin and the Honorable Steve Driehaus of Ohio, and a former Speaker of the House; the parents of a First Lady; the grandparents of a President; 6 Governors; 11 United States Generals; 6 United States Ministers to foreign governments; and 1 United States Ambassador;

Whereas Miami University's alumni include 27 college presidents;

Whereas Miami University has enriched our Nation in the arts, humanities, and sciences through students and alumni who have reached the pinnacle of their professions, such as a United States Poet Laureate, Pulitzer Prize winners, a National Teacher of the Year, National Institutes of Health Fellows, National Science Foundation award recipients, National Endowment of the Arts awardees, and renowned journalists;

Whereas Miami University is known as the ''Cradle of Coaches'' for the unparalleled number of nationally prominent collegiate and professional coaches it has produced, 18 of whom have been recognized as national coaches of the year, including Paul Brown (Cleveland Browns), Walter ''Smokey'' Alston (Brooklyn/Los Angeles Dodgers), Woody Hayes (Ohio State University), Bo Schembechler (University of Michigan), and Vicki Korn (Miami University);

Whereas Miami University has created a ''Culture of Champions'', an environment that teaches student athletes to excel in their chosen endeavors, and which led students to earn distinctions that include a National Football League Rookie of the Year, National Football League Super Bowl Champions, National Basketball Association World Champions, National Hockey League Stanley Cup Champions, Major League Baseball World Series Champions, and Olympic gold medalists;

Whereas Miami University has contributed to the economic growth of the United States through the education of men and women who have gone on to lead some of our most august corporations such as AT&T, Proctor & Gamble, the J.M. Smucker Company, and United Parcel Service of America; and

Whereas Miami University is the largest employer in Butler County, Ohio, with an economic impact of over $1,000,000,000 per year to the State of Ohio: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Miami University on the momentous occasion of the university's 200th anniversary;

(2) expresses its best wishes for Miami University's continued success; and

(3) requests that the Secretary of the Senate transmit an official copy of this resolution to Miami University for appropriate display.

PROVIDING FOR A JOINT SESSION OF CONGRESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 41 at the desk and just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 41) providing for a joint session of Congress to receive a message from the President.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, without intervening action or debate.

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

The concurrent resolution (H. Con. Res. 41) was agreed to.

ORDERS FOR THURSDAY, FEBRUARY 12, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. tomorrow, Thursday, February 12, for the celebration of the 200th anniversary of Abraham Lincoln's birth; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each; further, that the Senate recess from 11:30 a.m. to 1 p.m.

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

PROGRAM

Mr. DURBIN. Mr. President, at 11:30 a.m., there will be a ceremony honoring the 200th anniversary of the birth

of President Abraham Lincoln in the Capitol Rotunda. All Members are encouraged to attend.

ORDER FOR ADJOURNMENT

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order, following the remarks of Senator MURRAY.

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

Mrs. MURRAY. 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.

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

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

AMERICAN RECOVERY AND REINVESTMENT ACT

Mrs. MURRAY. Mr. President, I recently received a letter from a woman in Sultan, WA, that I want to share with you today as we work to finalize the American Recovery and Reinvestment Act. She wrote to me because her family is going through some very hard times and she doesn't know where else to turn.

Her husband, who is a veteran who received a Purple Heart, lost his job in October. Her own wages have been cut and her daughter and her 3-year-old granddaughter had to move in with them because they can't afford rent and childcare. At the end of this month, they are going to lose their home to foreclosure.

She said her family is living ''both literally and figuratively on the edge.'' As she put it:

> We are the textbook middle class . . . sliding into a jobless, homeless, and hopeless future.

Mr. President, I come this afternoon to share her story with you because the pain she is going through is being felt by millions of Americans who have lost their jobs and their homes in the last couple of years. Families such as hers feel as though their lives are slipping out from under them, and they are looking to us for help.

The House and the Senate have taken a critical step forward by passing the American Recovery and Reinvestment Act. It is going to give our economy the jolt it needs to create jobs and help our country get back on track. But we are not done yet. We still need to get that bill to the President. Every day we wait, the economy gets worse. Every day, more jobs are cut, more small businesses close their doors, more homes are lost, and more families are forced to make new sacrifices just to make ends meet. That is why I have come to the floor this evening.

The American people need action now. They need us to set aside our differences and put a final bill into President Obama's hands so we can start the real work of getting our country moving again. So I urge my colleagues in the House and the Senate to finish this job and give this bill final approval.

We know the bill that is coming out of conference is not perfect, but it makes tried-and-true investments that will help create jobs and get our country back on track. It makes a downpayment on the future by rebuilding our roads and bridges, our water and sewer plants—investments that will put people to work today and strengthen our economy for years to come.

The bill expands our renewable energy options, creating good-paying jobs in a growing industry and helping to end our addiction to oil. It will also help improve health care and cut costs by computerizing health records and boosting research. It invests in education and job training that will help our laid-off workers learn new skills and find new jobs.

Mr. President, our economy is not going to recover overnight. We still have very hard times ahead. But I am confident this is the urgent action we need to begin moving forward again. I want to take a few minutes this evening to talk about what it will mean for families in my home State of Washington.

To begin with, this bill offers a helping hand to thousands of families in Washington State who are struggling to meet their basic needs. In the last couple of months, we have seen a demand for food stamps, Medicaid, and other programs rise dramatically. Food stamp applications are up 15 percent over last year. State workers have said they are having trouble keeping up with the demand. This bill is going to help us meet the needs of the most vulnerable families by extending unemployment insurance benefits, expanding food stamps, and increasing funding to help with Medicaid costs.

This isn't just the moral thing to do, we would not be able to dig ourselves out of this economic crisis until people have money to spend. So this is the right decision economically as well. The money we spend on unemployment and food stamps will go right back into the economy as people use the benefits to pay for things they need. That is the same reason we are working to get money into the hands of working families and small business owners.

Like families all across the country, people in my home State are scared, they are struggling to make ends meet, and they aren't spending. So we include in this bill an income tax cut that will give almost 2½ million Washington workers some extra money in their paychecks every week. Because this bill is about stabilizing our economy and getting our country back on track, we are also including funding to help struggling families pay for critical expenses, such as childcare or health care or college tuition.

I was a working mom. I know that reliable childcare is what makes it possible for millions of parents to go to work every day. This bill increases the childcare development block grant so more parents can afford quality daycare for their kids. It increases Pell grants and higher education tax credits to help thousands of our students stay in college, get their degree, and then qualify for a good-paying job. Importantly, the bill also makes COBRA more affordable so people who have lost their jobs can keep their health insurance while they look for work.

So we are helping working families pay for their basic expenses, stay in school, and keep their jobs and their health care. That is critical to getting our country back on track.

But the biggest jolt to our economy will come from the millions of jobs we are creating in construction, in environmental cleanup, and in energy development. In my State, this bill will help put thousands of people to work fixing our roads and bridges and upgrading our mass transit and ferry systems. These are investments that will also make our communities stronger and more attractive to businesses in the long run. It will help us take a big step toward energy independence and lower energy costs for everyone.

This bill expands the Bonneville Power Administration's existing borrowing authority, and it will help us take advantage of more renewable energy sources and hire hundreds of thousands of new employees who will be trained to update our energy transmission systems. That will allow the new energy we hope to produce, such as wind, get to our homes and our businesses and save all of us money in the future.

This bill will also help create and preserve jobs at Hanford, and it will keep our legal and moral commitment to cleaning up nuclear waste in Washington State and across the country. It will also ensure that we can fulfill our responsibility to our Nation's veterans by making investments in badly needed construction and repair projects at our VA hospitals and medical facilities in Washington State and across the country.

But we are not just creating construction jobs in this bill. We are helping our local and State governments keep critical employees on the job—our police and our firefighters, our teachers, our university employees. This economic crisis has hit State and local governments terribly hard. They have had to make cuts across the board, including in education and emergency response. Local officials have told me they are very worried about what that will mean for their communities. Police chiefs and sheriffs have been warning me that I.D. theft, burglary, bank robbery, fraud, and gang activity are going to increase as jobs vanish and people become more desperate.

In this bill we provide money for Byrne and COPS grants to help keep

our police on the beat and our families safe. Just as important, this bill will help our schools and our colleges and our universities keep their doors open and keep the teachers in the classroom.

School board members from across my home State of Washington told me this week they are struggling to afford everything from salaries to their light bills. Several of them have already started laying off, and they are worried there is more to come. Universities in my home State are looking at hundreds of job cuts.

Education is critical to our communities, especially when the economy is bad. We need strong schools and colleges to train the workforce of the future. We need to make sure they are strong so our current workforce can get the skills and training they need to qualify for better jobs as well. We can't afford to take a step backward. So we are sending billions of critically needed dollars to schools and colleges across the country to keep the lights on, the doors open, teachers on the job, and to make sure we can meet the needs of students who have been hurt by this economic crisis.

Mr. President, let me add one other note. We aren't just helping to make up for State budget cuts. We are adding incentives that make sure schools keep working to increase standards and improve education for all of our students.

Finally, we are also investing in our greatest resource—our workers—so that our communities can stay productive and competitive in the global economy. This bill includes $64 million for training and job research services that will help our laid-off workers in Washington State learn the skills they need so they can begin new careers and stay in the middle class. It also provides incentives to encourage businesses to hire homeless veterans and disadvantaged teenagers who are looking for jobs today.

Mr. President, this isn't just going to help our teens and our veterans find jobs, it is good for the economy too. Teenagers, in particular, as we all know, are more likely to spend the money they earn in their own communities, and some of them also contribute to their families' incomes to help pay rent or put food on the table. So this is a smart investment.

This bill we are going to consider in the next day or so is critical for my home State. In Washington alone it will create thousands of jobs and make investments that will strengthen our communities for years to come. It isn't perfect. It is not a silver bullet that will solve all of our problems, but it certainly is the first of many steps that we are going to have to take to get our country turned around.

As President Obama has outlined, getting our economy back on track is going to take an aggressive three-pronged approach. The first step is to recover and reinvest. We also have to stabilize our financial institutions to fix the credit and banking system. We need to address the housing crisis. But I want to emphasize, we have to do all three if we are going to get this economy moving again. We are starting today with a bold recovery bill. While there are no guarantees with any of this, we can guarantee that if we do nothing, things are going to get worse. As hard as it has been to write and put this bill together, it does not even compare to the pain that is being felt by millions of Americans who are going to wake up tomorrow without a job.

They are watching us now, and they are expecting us to make good on the promises we have made—to bring change to Washington and restore confidence and security in our country. They expect us to work together. They expect us to put our differences aside and make the difficult decisions that will move our country forward. They cannot afford to wait any longer.

When I was growing up, my father was diagnosed with multiple sclerosis and all of a sudden he couldn't work any longer. My family—all seven kids, my mom—had to survive on food stamps. My brothers and sisters and I were able to go to college because of Pell grants and student loans. So I want you to know I understand what a lot of our families are going through today as they struggle in this economy. That is why I am working so hard with so many others to find ways that our Government and our country can help today.

President Obama made it clear Monday night that if we do not act, the economic crisis we are in now could become an economic catastrophe. I urge my colleagues to help pass this bill out of the conference, through the Senate and House, get it signed, get Americans back to work, and get our country on the road to recovery.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until Thursday, February 12, 2009, at 10 a.m.

Thereupon, the Senate, at 5:53 p.m., adjourned until Thursday, February 12, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF JUSTICE

DAVID S. KRIS, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE J. PATRICK ROWAN, RESIGNED.

DAWN ELIZABETH JOHNSEN, OF INDIANA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE JACK LANDMAN GOLDSMITH III, RESIGNED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) JANICE M. HAMBY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) STEVEN R. EASTBURG

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) MICHAEL A. BROWN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) THOMAS P. MEEK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) JOSEPH F. CAMPBELL
REAR ADM. (LH) JOHN C. ORZALLI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) TOWNSEND G. ALEXANDER
REAR ADM. (LH) DAVID H. BUSS
REAR ADM. (LH) KENDALL L. CARD
REAR ADM. (LH) NEVIN P. CARR, JR.
REAR ADM. (LH) JOHN N. CHRISTENSON
REAR ADM. (LH) MICHAEL J. CONNOR
REAR ADM. (LH) KENNETH E. FLOYD
REAR ADM. (LH) WILLIAM D. FRENCH
REAR ADM. (LH) PHILIP H. GREENE
REAR ADM. (LH) BRUCE E. GROOMS
REAR ADM. (LH) EDWARD S. HEBNER
REAR ADM. (LH) MICHELLE J. HOWARD
REAR ADM. (LH) WILLIAM E. SHANNON III
REAR ADM. (LH) CHARLES E. SMITH
REAR ADM. (LH) SCOTT H. SWIFT
REAR ADM. (LH) DAVID M. THOMAS
REAR ADM. (LH) KURT W. TIDD
REAR ADM. (LH) MICHAEL P. TILLOTSON
REAR ADM. (LH) MARK A. VANCE
REAR ADM. (LH) EDWARD G. WINTERS III

CONFIRMATION

Executive nomination confirmed by the Senate, Wednesday, February 11, 2009:

DEPARTMENT OF DEFENSE

WILLIAM J. LYNN, III, OF VIRGINIA, TO BE DEPUTY SECRETARY OF DEFENSE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.