

(D) in paragraph (9)—

(i) by striking “paragraph (1)(E)” and inserting “paragraph (5)(B)”;

(ii) by striking “(1)(A), (5),” and inserting “(5)(A),”; and

(E) in paragraph (11), by striking “(1)(E),”;

(2) in subsection (c)(10)(C)(vii), by striking “subsections (b)(1)(E) and (F),” and inserting “subparagraphs (B) and (C) of subsection (b)(5)”;

(3) in subsection (e)(1), by inserting “(1),” after “described in paragraph”;

(4) in subsection (f)(1)(A)(ii), by inserting “(A)” after “(b)(5)”;

(5) in subsection (g)(3)(A), by striking “subsection (b)(1)(E)” and inserting “subsection (b)(5)(B)”.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1448. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1450. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1451. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1452. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1453. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1454. Mr. SANDERS (for himself, Mr. LEAHY, Mr. SCHUMER, Mrs. GILLIBRAND, and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1455. Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1456. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1457. Mr. BENNET submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1458. Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1459. Mr. TESTER submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1460. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1461. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1462. Mr. COCHRAN (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 1461 submitted by Ms. MURKOWSKI and intended to be proposed to the amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1463. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1464. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1465. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1466. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1467. Mr. VITTER proposed an amendment to amendment SA 1458 submitted by Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. CARPER) to the amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1468. Mrs. MURRAY proposed an amendment to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

TEXT OF AMENDMENTS

SA 1448. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____ . DETAINEE PHOTOGRAPHIC RECORDS PROTECTION AND OPEN FREEDOM OF INFORMATION ACT.

(a) DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.—

(1) SHORT TITLE.—This subsection may be cited as the “Detainee Photographic Records Protection Act of 2009”.

(2) DEFINITIONS.—In this subsection:

(A) COVERED RECORD.—The term “covered record” means any record—

(i) that is a photograph that—

(I) was taken during the period beginning on September 11, 2001, through January 22, 2009; and

(II) relates to the treatment of individuals engaged, captured, or detained after Sep-

tember 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(ii) for which a certification by the Secretary of Defense under paragraph (3) is in effect.

(B) PHOTOGRAPH.—The term “photograph” encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(3) CERTIFICATION.—

(A) IN GENERAL.—For any photograph described under paragraph (2)(A)(i), the Secretary of Defense shall certify, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(i) citizens of the United States; or

(ii) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(B) CERTIFICATION EXPIRATION.—A certification submitted under subparagraph (A) and a renewal of a certification submitted under subparagraph (C) shall expire 3 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(C) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(i) a renewal of a certification in accordance with subparagraph (A) at any time; and

(ii) more than 1 renewal of a certification.

(D) NOTICE TO CONGRESS.—A timely notice of the Secretary’s certification shall be submitted to Congress.

(4) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(A) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(B) disclosure under any proceeding under that section.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the voluntary disclosure of a covered record.

(6) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

(b) OPEN FREEDOM OF INFORMATION ACT.—

(1) SHORT TITLE.—This subsection may be cited as the “OPEN FOIA Act of 2009”.

(2) SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.—Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

“(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

“(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

“(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.”.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, using

funds made available under the heading "U.S. CUSTOMS AND BORDER PROTECTION" and under the subheading "SALARIES AND EXPENSES", implement a demonstration program that is consistent with the technology acquisition and dissemination plan submitted under section 7201(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3810) to test the feasibility of using existing automated document authentication technology at select immigration benefit offices and ports of entry to determine the effectiveness of such technology in detecting fraudulent travel documents and reducing the ability of terrorists to enter the United States.

(b) If the demonstration program described in subsection (a) is carried out by a contractor, the Secretary of Homeland Security shall select such contractor on a competitive basis.

(c) Not later than 90 days after the date on which the demonstration program described in subsection (a) is completed, the Secretary of Homeland Security shall submit to the appropriate congressional committees (as defined in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2))) a report on the results of the demonstration program.

SA 1450. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ LOCAL DISASTER CONTRACTING FAIRNESS.

(a) **SHORT TITLE.**—This section may be cited as the "Local Disaster Contracting Fairness Act of 2009".

(b) **DEFINITIONS.**—In this section:

(1) The term "executive agency" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) The term "local subcontractor" means, with respect to a contract, a subcontractor who has a principal place of business or regularly conducts operations in the area in which work is to be performed under the contract by the subcontractor.

(3) The term "natural disaster reconstruction efforts" means reconstruction efforts undertaken in an area subject to a declaration by the President of a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(c) **FEDERAL CONTRACTING REQUIREMENTS.**—

(1) **IN GENERAL.**—The head of an executive agency may not enter into an agreement for debris removal or demolition services in connection with natural disaster reconstruction efforts unless the agreement specifies that—

(A) all of the work under the contract will be performed by the prime contractor or 1 or more subcontractors at 1 tier under the contract;

(B) any work performed under the contract by subcontractors will be performed by local subcontractors, except to the extent that local subcontractors are not available to perform such work;

(C) the prime contractor will act as the project manager or construction manager for the contract; and

(D) the prime contractor—

(i) has primary responsibility for managing all work under the contract; and

(ii) is to be paid a certain percentage of the overall value of the contract as sole com-

ensation for assuming the risk associated with such responsibility.

(2) **PREFERENCE FOR SUBCONTRACTORS AFFECTED BY NATURAL DISASTERS.**—In entering into an agreement for debris removal or demolition services in connection with natural disaster reconstruction efforts, the head of an executive agency shall give a preference in the source selection process to each offeror who certifies that any work that is to be performed under the contract by subcontractors will be performed by local subcontractors.

(d) **APPLICABILITY.**—The requirements under subsection (c) shall apply to agreements entered into on or after the date of the enactment of this Act.

SA 1451. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ NATURAL DISASTER FAIRNESS IN CONTRACTING.

(a) **SHORT TITLE.**—This section may be cited as the "Natural Disaster Fairness in Contracting Act of 2009".

(b) **DEFINITIONS.**—In this section:

(1) **EXECUTIVE AGENCY.**—The term "executive agency" has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) **FULL AND OPEN COMPETITIVE PROCEDURES.**—The term "full and open competitive procedures" has the meaning given the term "full and open competition" in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(3) **NATURAL DISASTER RECONSTRUCTION EFFORTS.**—The term "natural disaster reconstruction efforts" means reconstruction efforts undertaken in an area subject to a declaration by the President of a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(c) **COMPETITION REQUIREMENTS.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the head of an executive agency, in entering into a contract to procure property or services in connection with natural disaster reconstruction efforts, shall comply with the requirements under section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(2) **EXCEPTIONS.**—The exceptions to the requirement for competitive procedures provided under paragraphs (3), (4), and (7) of section 303(c) of such Act shall not apply to a contract described in paragraph (1).

(d) **WRITTEN APPROVAL FOR USE OF NON-COMPETITIVE PROCEDURES REQUIRED FOR CERTAIN CONTRACTS.**—

(1) **APPROVAL REQUIRED.**—The head of an executive agency may enter into a contract to procure property or services in connection with natural disaster reconstruction efforts using other than full and open competition only upon the written approval of the President or the President's designee.

(2) **CONGRESSIONAL NOTIFICATION REQUIRED.**—

(A) **IN GENERAL.**—If procedures other than full and open competitive procedures are to be used to enter into a contract described in paragraph (1), the head of the executive agency negotiating such contract shall notify the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the stand-

ing committees of the Senate and the House of Representatives that have jurisdiction over the executive agency not later than 7 calendar days before the award of the contract.

(B) **JUSTIFICATION.**—The notification under subparagraph (A) shall include—

(i) the justification for the use of other than full and open competitive procedures;

(ii) a brief description of the contract's scope;

(iii) the amount of the contract;

(iv) a discussion of how the contracting agency identified and solicited offers from contractors;

(v) a list of the contractors solicited; and

(vi) the justification and approval documents, required under section 303(f)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)), upon which the determination of use of procedures other than full and open competitive procedures was based.

(3) **SCOPE OF REQUIREMENTS.**—

(A) **SIZE OF CONTRACTS.**—This subsection shall not apply to contracts of less than \$5,000,000.

(B) **APPLICABILITY.**—This subsection shall apply to any extension, amendment, or modification of a contract for the procurement of property or services in connection with natural disaster reconstruction efforts entered into before the date of the enactment of this Act using other than full and open competitive procedures.

(C) **SMALL BUSINESS EXCEPTION.**—This subsection shall not apply to contracts authorized under the Small Business Act (15 U.S.C. 631 et seq.).

(e) **DISCLOSURE REQUIRED.**—

(1) **PUBLICATION AND PUBLIC AVAILABILITY.**—

(A) **IN GENERAL.**—The head of an executive agency that enters into a contract for the procurement of property or services in connection with natural disaster reconstruction efforts through the use of other than full and open competitive procedures shall publish in the Federal Register or Federal Business Opportunities, and otherwise make available to the public not later than 7 calendar days before the date on which the contract is finalized—

(i) the amount of the contract;

(ii) a brief description of the scope of the contract;

(iii) an explanation of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, and a list of the potential contractors that were issued solicitations for the offers; and

(iv) the justification and approval documents, required under section 303(f)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)), on which was based the determination to use procedures other than competitive procedures.

(B) **SCOPE OF REQUIREMENTS.**—

(i) **SIZE OF CONTRACTS.**—This subsection shall not apply to contracts of less than \$5,000,000.

(ii) **APPLICABILITY.**—This subsection shall apply to any extension, amendment, or modification of a contract entered into before the date of the enactment of this Act using other than full and open competitive procedures.

(iii) **SMALL BUSINESS EXCEPTION.**—This subsection shall not apply to contracts authorized under the Small Business Act (15 U.S.C. 631 et seq.).

(2) **RELATIONSHIP TO OTHER DISCLOSURE LAWS.**—Nothing in this subsection may be construed as affecting obligations to disclose United States Government information under any other provision of law.

(f) CONTRACTS ENTERED INTO UNDER UNUSUAL AND COMPELLING URGENCY EXCEPTION.—

(1) REQUIREMENT FOR PERFORMANCE WITHIN 6-MONTH PERIOD.—The head of an executive agency may not rely on the exception under section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)) to enter into a contract to procure property or services in connection with natural disaster reconstruction efforts using procedures other than competitive procedures unless the contract will be performed within a 6-month period.

(2) EXTENDED NOTIFICATION AND DISCLOSURE DEADLINES.—The notification and disclosure deadlines under subsections (d)(2) and (e)(1)(A), respectively, shall be 7 calendar days after the date on which a contract described in paragraph (1) is finalized.

SA 1452. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to prohibit the use of a passport card issued to a national of the United States to serve as proof of identity and citizenship for the purpose of international travel by such national through all air ports of entry between the United States and Canada.

SA 1453. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 13, before the “.” insert:

Provided, That none of the funds made available for financial systems consolidation shall be obligated until the Secretary satisfies the recommendations of the Government Accountability Office (GAO-07-536) and the Office of Inspector General (OIG-08-47), including an independent cost benefit analysis and comprehensive review of alternatives

SA 1454. Mr. SANDERS (for himself, Mr. LEAHY, Mr. SCHUMER, Mrs. GILLIBRAND, and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____ . (a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the entities specified in subsection (c), submit to Congress a report on improving cross-border inspection processes in an effort to reduce the time to travel between locations in the United States and locations in Ontario and Quebec by intercity passenger rail.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) an evaluation of potential cross-border inspection processes and methods that comply with Department of Homeland Security requirements that would—

(A) reduce the time to travel on routes between locations in the United States and locations in Ontario and Quebec by intercity passenger rail; and

(B) increase the frequency of on-time arrivals by intercity passenger trains traveling on those routes;

(2) an assessment of the extent to which improving or expanding infrastructure and increasing staffing could increase the efficiency with which intercity rail passengers are screened at border crossings without decreasing security;

(3) an updated evaluation of the potential for pre-clearance by the Department of Homeland Security of intercity rail passengers at locations along routes between locations in the United States and locations in Ontario and Quebec, including through the joint use of inspection facilities with the Canada Border Services Agency, based on the report required by section 1523 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53; 121 Stat. 450);

(4) an estimate of the timeline for implementing the methods for reducing the time to travel between locations in the United States and locations in Ontario and Quebec by intercity passenger rail based on the evaluations and assessments described in paragraphs (1), (2), and (3); and

(5) a description of how such evaluations and assessments would apply with respect to—

(A) all existing intercity passenger rail routes between locations in the United States and locations in Ontario and Quebec, including designated high-speed rail corridors;

(B) any intercity passenger rail routes between such locations that have been used over the past 20 years and on which cross-border passenger rail service does not exist as of the date of the enactment of this Act; and

(C) any potential future rail routes between such locations.

(c) ENTITIES SPECIFIED.—The entities to be consulted in the development of the report required by subsection (a) are—

(1) the Government of Canada, including the Canada Border Services Agency and Transport Canada and other agencies of the Government of Canada with responsibility for providing border services;

(2) the Provinces of Ontario and Quebec;

(3) the States of Maine, Massachusetts, New Hampshire, New York, and Vermont;

(4) the National Railroad Passenger Corporation; and

(5) the Federal Railroad Administration.

SA 1455. Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____ . (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Attorney General and the Administrative Office of the United States

Courts, shall submit a report to the congressional committees set forth in subsection (b) that provides details about—

(1) additional Border Patrol sectors that should be utilizing Operation Streamline programs; and

(2) resources needed from the Department of Homeland Security, the Department of Justice, and the Judiciary, to increase the effectiveness of Operation Streamline programs at some Border Patrol sectors and to utilize such programs at additional sectors.

(b) The congressional committees set forth in this subsection are—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

SA 1456. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____ . DETAINEE PHOTOGRAPHIC RECORDS PROTECTION AND OPEN FREEDOM OF INFORMATION ACT.

(a) DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.—

(1) SHORT TITLE.—This subsection may be cited as the “Detainee Photographic Records Protection Act of 2009”.

(2) DEFINITIONS.—In this subsection:

(A) COVERED RECORD.—The term “covered record” means any record—

(i) that is a photograph that—

(I) was taken during the period beginning on September 11, 2001, through January 22, 2009; and

(II) relates to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(ii) for which a certification by the Secretary of Defense under paragraph (3) is in effect.

(B) PHOTOGRAPH.—The term “photograph” encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(3) CERTIFICATION.—

(A) IN GENERAL.—For any photograph described under paragraph (2)(A)(i), the Secretary of Defense shall issue a certification, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger —

(i) citizens of the United States; or

(ii) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(B) CERTIFICATION EXPIRATION.—A certification under subparagraph (A) and a renewal of a certification under subparagraph (C) shall expire 3 years after the date on which the certification or renewal, as the case may be, is made.

(C) CERTIFICATION RENEWAL.—The Secretary of Defense may issue—

(i) a renewal of a certification in accordance with subparagraph (A) at any time; and

(ii) more than 1 renewal of a certification.

(D) NOTICE TO CONGRESS.—A timely notice of the Secretary's certification shall be submitted to Congress.

(4) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(A) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(B) disclosure under any proceeding under that section.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the voluntary disclosure of a covered record.

(6) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

(b) OPEN FREEDOM OF INFORMATION ACT.—

(1) SHORT TITLE.—This subsection may be cited as the "OPEN FOIA Act of 2009".

(2) SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.—Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

"(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

"(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

"(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph."

SA 1457. Mr. BENNET submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 13, insert "Provided, That of the total amount made available under this heading, \$5,000,000 shall not be obligated until the Chief Financial Officer or an individual acting in such capacity submits a financial management improvement plan that addresses the recommendations outlined in the Department of Homeland Security Office of Inspector General report # OIG-09-72, including yearly measurable milestones, to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That the plan described in the preceding proviso shall be submitted not later than January 4, 2010" before the period.

SA 1458. Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 77, between lines 16 and 17, insert the following:

SEC. ____ (a) The amount appropriated under the heading "firefighter assistance grants" under the heading "Federal Emergency Management Agency" under by title III for necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 is increased by \$10,000,000 for necessary expenses to carry out the programs authorized under section 33 of that Act (15 U.S.C. 2229).

(b) The total amount of appropriations under the heading "Aviation Security" under the heading "Transportation Security Administration" under title II, the amount for screening operations and the amount for explosives detection systems under the first proviso under that heading, and the amount for the purchase and installation of explosives detection systems under the second proviso under that heading are reduced by \$4,500,000.

(c) From the unobligated balances of amounts appropriated before the date of enactment of this Act for the appropriations account under the heading "state and local programs" under the heading "Federal Emergency Management Agency" for "Trucking Industry Security Grants", \$5,500,000 are rescinded.

SA 1459. Mr. TESTER submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 77, between lines 16 and 17, insert the following:

SEC. 5 ____ None of the funds made available under this Act may be obligated for the construction of the National Bio and Agro-defense Facility on the United States mainland until 90 days after the later of—

(1) the date on which the Secretary of Homeland Security completes a site-specific bio-safety and bio-security mitigation assessment to determine the requirements necessary to ensure safe operation of the National Bio and Agro-defense Facility at the preferred site identified in the January 16, 2009, record of decision published in Federal Register Vol. 74, Number 111;

(2) the date on which the Secretary of Homeland Security, in coordination with the Secretary of Agriculture, submits to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that—

(A) describes the procedure that will be used to issue the permit to conduct foot-and-mouth disease live virus research under section 7524 of the Food, Conservation, and Energy Act of 2008 (21 U.S.C. 113a note; Public Law 110-246); and

(B) includes plans to establish an emergency response plan with city, regional, and State officials in the event of an accidental release of foot-and-mouth disease or another hazardous pathogen.

SA 1460. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, between lines 16 and 17, insert the following:

SEC. 556. EMERGENCY SHELTERS.

(a) RESCISSION.—Of amounts made available before the date of enactment of this Act from the appropriations account under the heading "DISASTER RELIEF" under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY" to the State of Louisiana pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for Hurricane Katrina, \$150,000,000 are rescinded.

(b) APPROPRIATION.—There is appropriated for the fiscal year ending September 30, 2009, out of any money in the Treasury not otherwise appropriated, \$150,000,000, to remain available until expended, for the appropriations account under the heading "STATE AND LOCAL PROGRAMS" under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY" for a grant to the State of Louisiana for the construction of emergency shelters or modification of facilities to serve as emergency shelters. For purposes of Senate enforcement, the amount made available under this subsection is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 1461. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, between lines 16 and 17, insert the following:

SEC. 556. CERTAIN DISASTER RELIEF.

Notwithstanding section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172), the Administrator of the Federal Emergency Management Agency shall reimburse the Cordova Electric Cooperative, Incorporated, for not less than 75 percent of the cost of the reconstruction of the Humpback Creek Hydroelectric Project in Cordova, Alaska, pursuant to major disaster declaration FEMA-1669-DR (71 Fed. Reg. 75969), in accordance with the proposed reconstruction concept as described in Federal Energy Regulatory Commission, Cordova Electric Cooperative, Incorporated, Project No. 8889-046, Order Amending License, Approving Revised Exhibits And Revising Project Boundary (issued March 31, 2009, as corrected April 3, 2009).

SA 1462. Mr. COCHRAN (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 1461 submitted by Ms. MURKOWSKI and intended to be proposed to the amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following: "Notwithstanding any other provision of law, the Administrator of the Federal Emergency Management Agency shall reimburse the Bay St. Louis-Waveland School District under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5173) for 100 percent of the costs to replace all buildings located on the campus of Second Street Elementary, Bay St. Louis, Mississippi damaged by Hurricane Katrina of 2005."

SA 1463. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill

H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 77, between lines 16 and 17 insert the following:

SEC. 556. FEDERAL DEPOSIT INSURANCE ACT TECHNICAL CORRECTION.

(a) APPLICABLE ANNUAL PERCENTAGE RATE OF INTEREST.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) in the matter preceding subparagraph (A), by inserting “(or in the case of a governmental entity located in such State, paid)” after “received, or reserved”; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking “nondepository institution operating in such State” and inserting “governmental entity located in such State and any person that is not a depository institution described in subparagraph (A) doing business in such State”;

(B) by redesignating clause (ii) as clause (iii);

(C) in clause (i)—

(i) in subclause (III)—

(I) in item (aa), by adding “and” at the end;

(II) in item (bb), by striking “, to facilitate” and all that follows through “2009”; and

(III) by striking item (cc); and

(ii) by adding after subclause (III) the following:

“(IV) the uniform accessibility of bonds and obligations issued under the American Recovery and Reinvestment Act of 2009;”;

(D) by inserting after clause (i) the following:

“(ii) to facilitate interstate commerce through the issuance of bonds and obligations under any provision of State law, including bonds and obligations for the purpose of economic development, education, and improvements to infrastructure; and”.

(b) EFFECTIVE PERIOD.—The amendments made by this section shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

SA 1464. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____ . PROPER DISPOSAL OF PERSONAL INFORMATION COLLECTED THROUGH THE REGISTERED TRAVELER PROGRAM.

(a) IN GENERAL.—Any company that collects or retains personal information from individuals who participated in the Registered Traveler program shall safeguard and dispose of such information in accordance with the requirements in—

(1) the National Institute for Standards and Technology Special Publication 800–30, entitled “Risk Management Guide for Information Technology Systems”; and

(2) the National Institute for Standards and Technology Special Publication 800–53, Revision 3, entitled “Recommended Security Controls for Federal Information Systems and Organizations;”;

(3) any supplemental standards established by the Assistant Secretary, Transportation

Security Administration (referred to in this section as the “Assistant Secretary”).

(b) CERTIFICATION.—The Assistant Secretary shall—

(1) review the procedures used to safeguard and dispose of such information; and

(2) require any company described in subsection (a) to provide, not later than 30 days after the date of the enactment of this Act, written certification to the sponsoring aircraft operator or airport operator that such procedures are consistent with the minimum standards established under paragraph (1).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Assistant Secretary shall submit a report to Congress that—

(1) describes the procedures that have been used to safeguard and dispose of personal information collected through the Registered Traveler program; and

(2) provides the status of the certification by any company described in subsection (a) that such procedures are consistent with the minimum standards established by the Assistant Secretary.

SA 1465. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 77, between lines 16 and 17, insert the following:

SEC. 556. ADMINISTRATIVE LAW JUDGES.

The administrative law judge annuitants participating in the Senior Administrative Law Judge Program managed by the Director of the Office of Personnel Management under section 3323 of title 5, United States Code, shall be available on a temporary re-employment basis to conduct arbitrations of disputes as part of the arbitration panel established by the President under section 601 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 164).

SA 1466. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 39, line 9, after “spending:” insert the following: “Provided further, That not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives that includes (1) a plan for the acquisition of alternative temporary housing units, and (2) procedures for expanding repair of existing multi-family rental housing units authorized under section 6891(a) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 776(a)), semi-permanent, or permanent housing options.”.

SA 1467. Mr. VITTER proposed an amendment to amendment SA 1458 submitted by Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. CARPER) to the amendment SA 1373 proposed by Mr.

REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end add the following:

SEC. ____ . None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: *Provided*, That the prescription drug may not be—

SA 1468. Mrs. MURRAY proposed an amendment to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place insert the following:

None of the funds appropriated or otherwise made available by this Act may be used by the Department of Homeland Security to enter into any federal contract unless such contract is entered into in accordance with the requirements of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) or Chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation, unless such contract is otherwise authorized by statute to be entered into without regard to the above referenced statutes.

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 Committee on Energy and Natural Resources Subcommittee on National Parks.

The hearing will be held on Wednesday, July 22, 2009, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 635, to amend the Wild and Scenic Rivers Act to designate a segment of Illabot Creek in Skagit County, Washington, as a component of the National Wild and Scenic Rivers System;

S. 715, to establish a pilot program to provide for the preservation and rehabilitation of historic lighthouses;

S. 742, to expand the boundary of the Jimmy Carter National Historic Site in the State of Georgia, to redesignate the unit as a National Historical Park, and for other purposes;

S. 1270, to modify the boundary of the Oregon Caves National Monument, and for other purposes;

S.1418 and H.R. 2330, to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing Camp Hale as a unit of the National Park System; and