United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, WEDNESDAY, JULY 22, 2009 No. 111

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Spirit of God, descend upon our hearts and bless the Members of this body in their ministry of legislative work. Give them the ethical and spiritual insight to see beyond the faulty and superficial so that they will accomplish Your will on Earth. Lord, turn their weights into wings by increasing their strength and gladdening their spirit. Open doors of opportunity for them to render service that will empower the powerless and unshackle the oppressed. Make them eager to extend the helping hand of kindness and friendship that will send rays of hope far down the future's broadening way. Give them Your wisdom to make creative decisions and Your power to offset the pressures of the demanding life they are called to live.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 22, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the Department of Defense authorization bill. The time until 12 is for debate on the Thune amendment, with the time equally divided and controlled between Senators THUNE and DURBIN or their designees. At 12 today, the Senate will proceed to a rollcall vote in relation to the Thune amendment. Under an agreement reached a couple of days ago, there will be 60 affirmative votes required for the adoption of the amendment.

As a reminder to all Senators, there will be a live quorum at 2 p.m. today for the Court of Impeachment of Samuel Kent. Senators should be in the Chamber at that time. There will be a delegation from the House that will appear at that time.

Additional rollcall votes are expected throughout the afternoon as the Senate considers amendments to the Defense authorization bill. Yesterday, the managers, Senators LEVIN and MCCAIN, asked for an 11 a.m. filing deadline for first-degree amendments. We hope this will be accomplished with a consent agreement this morning.

I will later today meet with the distinguished Republican leader and make some decisions as to how we will finish our work the rest of this week and the next 2 weeks and to find out if we will have to work any weekends. We have a number of things we are required to do. I gave the Republican leader last week an idea of what I think we need to accomplish. Without going into detail now, I will be meeting with him later to see if we can figure out a way to do it as easily as possible. We have two weekends until the August recess. I hope it is not necessary that we work weekends, but it is certainly possible. I hope we can end when we need to end. We have some things we have to do before we leave. I hope that can be accomplished. I am confident that with some cooperation it can.

HEALTH CARE REFORM

Mr. REID. Mr. President, the choices in this health care debate should be about which ideas contain the best solutions to fix a severely broken system. The choices in this health care debate should be about how best to lower costs while increasing quality of care and how best to bring security and stability back to health care. The choices in this health care debate should be about how to make it easier to stay healthy. But for some, the choice seems to be whether we should do anything, whether to act at all. This is a false choice. That is not a choice we have. Not acting is not an option.

A week or so ago, the Republican leader in the House of Representatives said:

I think we all understand that we've got the best health care system in the world.

Unlike the vast majority of Americans, he seems pretty content with the status quo.

Just this week, the junior Senator from South Carolina said that we just need to ''get out of the way and allow the market to work.'' In other words,

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

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he says: Let's do nothing. Let's repeat the same mistakes of the past and dig ourselves deeper and deeper into this hole the Obama administration inherited.

That is not responsible and is not legislating. That approach does nothing to help the millions of Americans who live just one accident, one illness, or one pink slip away from losing their health coverage. That posture certainly does nothing to help the millions of Americans who have no health insurance to begin with. If we just get out of the way, as the Senator suggests, health care costs will get higher and more people who have health care this year will not be able to say the same next year. Today, 14,000 people in America will lose their health insurance. Yesterday, 14,000 people already lost their health insurance. Tomorrow, 14,000 people will lose their health insurance. No weekends off, no holidays—14,000, 7 days a week.

If we let the market work its will, as the Senator suggests, less than a decade from now you will have to spend almost half of the family's income on health care. That is not sustainable. If we sit this one out, as the Senator suggests, more parents will decide they can't take their children to the doctor when they are hurt or sick because it simply costs too much to pay the medical bills, and more small businesses will lay off more of their workers because it simply costs too much to give them health coverage. If, as the Senator suggests, we do nothing, we will keep our economy from recovering, keep businesses from growing, and keep families from getting the doctor visits and medicine they need to stay healthy. Allowing the market to work is code for letting the greedy insurance companies, companies that care more about profits than people, continue to deny coverage because one has a preexisting condition or they have gotten a little too old or maybe they have even changed jobs.

We have already seen what happens when we do nothing. Over the past 8 years of inaction, the costs of health care rose to record levels and the number of Americans who cannot afford insurance did the same. Right now in Nevada, far more than 100,000 people already lack coverage, the coverage they need to have adequate care when they get sick or hurt. We can't afford to treat these people in emergency rooms, which is where the uninsured go for treatment. That is the only place they can go in many instances. If we don't act, many more Nevadans will lose their coverage and many around America will also lose their coverage.

There are a lot of good ideas about how to fix the health care system in America. At this critical time for our economy's health and our citizens' health, it is important we exhaustively determine what those changes should be. The question is not whether we should explore any of them; our job is to determine which of these paths will lead us back to recovery, prosperity, and good health.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE WEEK VII, DAY II

Mr. MCCONNELL. Mr. President, yesterday, the President, to his credit, acknowledged what the American people have been telling us for weeks: that the Democratic health care proposals currently making their way through Congress aren't where they need to be. I couldn't agree with him more.

All of us recognize the need for reform. That is not in question. And that is why day after day, I have come to the floor of the Senate and proposed concrete, commonsense reforms that all of us can agree on, reforms that would increase access, decrease costs, and guarantee that no one in this country would be forced to give up the care they currently have.

As I have said repeatedly, we should reform malpractice laws; encourage wellness and prevention programs that encourage healthier lifestyles like quitting smoking and fighting obesity; promote more competition in the private insurance market; and address the needs of small businesses in a way that doesn't kill jobs in the middle of a recession.

Unfortunately, the administration seems bent on its own proposal for a government-driven plan that costs trillions of dollars and asks small businesses and seniors to pay for it.

Once this plan is implemented, the American people could be left with a system that none of them would recognize and that most of them would regret—a system in which health care is denied, delayed, and rationed, a system which delivers worse care than Americans currently receive at an even higher cost. Americans want reform. But they don't want this. And they don't want either of the two proposals we have seen so far.

Both proposals could lead to a government takeover of health care, increase long-term health care costs, and cost trillions of dollars—on the backs of seniors, small businesses, and by adding hundreds of billions of dollars to the already-staggering national debt.

The President has said that both of these bills need work. And in my view, Democrats in Congress should listen to the President and come up with something Americans really want. This may take time. But Americans would rather that we get these reforms right than just get them written. When it comes to health care, Americans are sending a clear message: slow down and get it right. It is a message many of us have been delivering for weeks, and it is a message one of the Senate's top Democrats in the health care debate seemed to echo yesterday when he said that the critical test isn't whether we meet a certain deadline but whether we get this reform right, whether it stands the test of history.

We know Americans reject an artificial deadline on closing Guantanamo without a plan on what to do to keep us safe from the detainees who are housed there. And they regret accepting a rushed and artificial deadline on the stimulus. Health care is simply too important to rush, just to meet a date someone picked out of the air.

The arguments we have heard in favor of rushing just don't square with reality.

The administration and some in Congress say that we have to pass these bills right away because rising health care costs are an imminent threat to the economy. Yet the Democrat plans we have seen so far would make the problem worse. According to the independent Congressional Budget Office, the Democrat proposals would very likely increase overall health care spending, not reduce it. There goes that argument.

Others say we need to pass these bills right away because people can't live under the current system a day longer. Yet many of the proposals we have seen wouldn't even go into effect for at least another four years. There goes that argument.

Some say that under the proposals we have seen Americans won't lose the coverage they have. Yet independent studies show that millions would be pushed off plans they currently have and like. There goes that argument too.

The only possible explanation for passing a bill in 2 weeks that could hand over one-sixth of the U.S. economy to the government is that the longer this plan sits out in the open, the more Americans oppose it. Already, Americans are shocked at the idea of funding a government takeover of health care on the backs of seniors through cuts to Medicare or through taxes on small businesses in the middle of a recession. They are shocked to hear that the final proposal could force taxpayers to fund abortions. They have serious concerns about adding to the national debt. And they are worried about the prospect of being forced off the plans they currently have. These concerns are serious. They should be taken seriously, not brushed aside in the service of some artificial deadline.

No one in Washington wants to block health care reform. But many of us do want to take the time that is needed to deliver the kinds of reform that Americans actually want, not a so-called reform that leads to a government takeover of health care that leaves people paying more for worse care than they currently have.

The President was right. The proposals we have seen are not where they need to be—not even close. But that does not mean reform is not possible,

that reform is not coming, or that anyone does not want reform. What it does mean is we need to take the time to get the health care reforms the American people want. That is what they expect, and we should do no less.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1390, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1390) to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Thune amendment No. 1618, 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.

Brownback amendment No. 1597, to express the sense of the Senate that the Secretary of State should redesignate North Korea as a state sponsor of terrorism.

AMENDMENT NO. 1618

The ACTING PRESIDENT pro tempore. The time until noon will be equally divided and controlled between the Senator from South Dakota, Mr. THUNE, and the Senator from Illinois, Mr. DURBIN, or their designees on amendment No. 1618, offered by the Senator from South Dakota.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, amendment No. 1618 is a very simple amendment. It is tailored to allow individuals to protect themselves while at the same time protecting States rights.

My amendment would allow an individual to carry a concealed firearm across State lines if they either have a valid permit or if, under their State of residence, they are legally entitled to do so.

My amendment does not create a national concealed carry permit system or standard. My amendment does not allow individuals to conceal and carry within States that do not allow their own citizens to do so. My amendment does not allow citizens to circumvent their home State's concealed carry permit laws.

If an individual is currently prohibited from possessing a firearm under Federal law, my amendment would continue to prohibit them from doing so. When an individual with a valid conceal and carry permit from their home State travels to another State that also allows their citizens to conceal and carry, the visitor must comply with the restrictions of the State they are in.

This carefully tailored amendment will ensure that a State's border is not a limit to an individual's fundamental right and will allow law-abiding individuals to travel, without complication, throughout the 48 States that currently permit some form of conceal and carry.

Law-abiding individuals have the right to self-defense, especially because the Supreme Court has consistently found that police have no constitutional obligation to protect individuals from other individuals.

The Seventh Circuit explained this most simply in their 1982 Bowers v. DeVito decision where they said:

[T]here is no Constitutional right to be protected by the state against being murdered by criminals or madmen.

Responsible gun ownership by law-abiding individuals, however, provides a constitutional means by which individuals may do so, and responsible conceal and carry holders have repeatedly proven they are effective in protecting themselves and those around them.

Reliable, empirical research shows that States with concealed carry laws enjoy significantly lower crime and violent crime rates than those States that do not.

For example, for every year a State has a concealed carry law, the murder rate declines by 3 percent, rape by 2 percent, and robberies by over 2 percent.

Additionally, research shows that ''minorities and women tend to be the ones with the most to gain from being allowed to protect themselves.''

The benefits of conceal and carry extend to more than just the individuals who actually carry the firearms. Since criminals are unable to tell who is and who is not carrying a firearm just by looking at a potential victim, they are less likely to commit a crime when they fear they may come in direct contact with an individual who is armed.

This deterrent is so strong that a Department of Justice study found that 40 percent of felons had not committed crimes because they feared the prospective victims were armed. Additionally, research shows that when unrestricted conceal and carry laws are passed, not only does it benefit those who are armed, but it also benefits others around them such as children. In addition to the empirical evidence, there are anecdotal stories as well.

A truckdriver from Onida, SD—a long-haul trucker—10 years ago, on a trip to Atlanta, stopped at a truck stop in Georgia. He shared this story recently. It is a more dated story. But a strange man suddenly jumped on the hood of his truck, showed a gun, and started demanding all the cash this truckdriver had. Working on instinct, he pulled out the firearm he always kept in his cab and showed the gun to the perpetrator, who jumped off the hood and ran away as soon as he saw it.

That story, while one that may not make it into the crime statistics or the newspapers, is the type of story that demonstrates how my amendment will help individuals—law-abiding individuals, who travel from State to State either for work or for pleasure.

So it is very straightforward. The amendment, as I said, simply allows those who have concealed carry permits in their State of residence to be able to carry firearms across State lines, respectful of the laws that pertain in each of the individual States.

So it is not, as some have suggested, a preemption of State laws. There are a couple States where their individuals are precluded from having concealed carry, and in those States this amendment would not apply. Obviously, we are, as I said before, very respectful of States rights and State laws that have been enacted with regard to this particular issue.

But I might say, too, in my State of South Dakota, we have a national reciprocity understanding, national reciprocity concealed carry understanding, with all the other States in the country. So of the other 47 States where concealed carry is allowed, any of the residents of those States who have concealed carry permits can carry in the State of South Dakota. There are 10 other States that also fit into that category.

I believe if we check the records and look at the data, it is pretty clear the States that have enacted national concealed carry reciprocity agreements have not seen, as has been suggested by opponents of this amendment, any increase in crime rates.

I believe this is something that is consistent with the constitutional right that citizens in this country have to keep and bear firearms. We have, as I said, 48 States currently today that have some form of concealed carry law that allows their individuals in their States, residents of their States, to carry. This simply extends that constitutional right across State lines, recognizing that the right to defend oneself and the right to exercise that basic second amendment constitutional right does not end at State borders or State lines.

So, Mr. President, I hope my colleagues in the Senate will adopt this amendment. I think it is a commonsense approach to allowing more people across this country to have the opportunity to protect themselves when they are threatened. As I said before, the statistics bear out the fact that when that is the case, when people have that opportunity—States that have enacted concealed carry laws have seen actually crime rates, particularly violent crime rates, go down.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise in opposition to the Thune amendment. The Senator from South Dakota tells us this is a very simple amendment. He tells us his amendment is consistent with self-defense and the reduction of crime.

What the Senator from South Dakota cannot explain is why 400 mayors, the International Association of Chiefs of Police, the Major Cities Police Chiefs Association, and the bipartisan association known as State Legislators Against Illegal Guns oppose this so-called very simple amendment.

Here is why they oppose it. The Thune amendment provides that if a State gives a person a permit to carry concealed weapons, then that person is free to carry concealed weapons in 47 other States and the District of Columbia. Those other States would be required to let this visitor carry a concealed loaded weapon in their State, even if their laws in that State would not currently allow that person to carry a gun.

Let's be clear about the effect of this amendment. There are 36 States with laws governing who can carry concealed weapons, including which out-of-State permits that State will accept, if any. The States already have laws. Under the Thune amendment, those laws can be ignored. So if the Thune amendment becomes law, people who are currently prohibited from carrying concealed guns in those 36 States are free to do so.

It is absurd that we are considering this amendment today. We know nothing about the impact this amendment is actually going to have across America. How many Senators from the 36 States that already have laws governing concealed carry have had a chance to talk to their State law enforcement officials about this amendment and what it means?

Apparently, those who support this amendment want to move it very quickly. We scheduled a hearing—it is supposed to take place tomorrow—on this amendment before the Senate Judiciary Subcommittee on Crime. But the Senator from South Dakota did not want to wait for a hearing before the committee. He has asked the Senate to take up this measure today before the hearing date.

Here are some of the reasons this amendment is so troubling. As my colleagues know, we have a federalist system—a government in Washington, a national government, and in each State and the District of Columbia State government and local control. States have adopted different standards in their State with regard to who the State will permit to carry concealed weapons. Each State has considered this issue and decided what is safe for their residents. Elected representatives, elected by the people, have made that decision State by State.

Some States have very rigorous standards. If you want to carry a concealed weapon, for example, a number of States will not allow you to if you are an abuser of alcohol, if you have been convicted of certain misdemeanor crimes or if you have not completed a training course to show you know how to use a gun. The States have established that standard. If you want to go ''packin' '' in these States, you better not be a habitual drunkard; you better not be in a position where you have committed these misdemeanor crimes, and you have to prove by test and sometimes on the range that you can safely use this gun that you want to carry.

In Iowa, you cannot have a permit to carry a weapon if you are addicted to alcohol or if you have a history of repeated acts of violence.

In Pennsylvania, individuals convicted of certain misdemeanor crimes, such as impersonating a police officer, cannot have a concealed carry permit.

In South Carolina, any person who is a member of a subversive organization or a habitual drunkard cannot carry a handgun.

In California, you cannot carry a firearm for 10 years after being convicted of misdemeanors, including assault, battery, stalking, threatening a judge, victim, or witness.

Other States, in contrast, have minimal or no concealed carry standards beyond the baseline of the Federal law which applies to all States.

For example, a number of States, including Georgia, do not require any firearms training for a concealed carry permit. In 2008, a spokesman for the Georgia Bureau of Investigation told a newspaper: ''A blind person can get a permit in Georgia since all you have to do is pass a background check.''

Two States—Alaska and Vermont—do not even require a permit to carry a concealed weapon. Those States let anyone carry a concealed weapon. Under the Thune amendment, people from those States—with virtually no standards for concealed carry or no requirement to prove they know how to use a gun—those people could visit States where they have established standards for the safety of their residents and under the Thune amendment legally carry a gun.

In other words, the visitors can ignore the law of the State—a law the elected representatives of the people in that State have enacted. Some States do little oversight on the concealed carry permits they have issued. In the year 2007, the South Florida Sun Sentinel newspaper found that 1,400 people in Florida had active concealed carry licenses even though they had received sentences—criminal sentences—for major crimes, including assault, sexual battery, child abuse, and manslaughter.

So even in the States where they have established standards for concealed carry, many of them are not keeping an eye on them. There is no oversight. As a consequence, people may be legally carrying in one State which has lax standards in obtaining the permit and no review—virtually no review when it comes to the people who end up with the permits—and that person can travel to another State which has established standards for the safety of their own citizens and under the Thune amendment legally carry a gun.

If the Thune amendment is enacted, States with carefully crafted concealed carry laws must allow concealed carry by out-of-State visitors who may not meet their own State's standards, who may even have sexual battery, child abuse, or manslaughter convictions.

Is that going to make us safer? Do we want in my State—well, Illinois would be an exception because we do not have a concealed carry law. We are one of two States that do not. But for the other 48 States, do we want people traveling across the border who do not meet the basic requirements of knowing how to use a firearm, who do not meet the basic requirements in terms of their own criminal background? Is it so important that everybody carry a gun everywhere or do we want to respect States rights—States rights to determine what is safe in their own State? Why would we want to override some States' standards to allow questionable concealed carry permit holders from States with lower standards or virtually no standards?

It is not necessary for us to adopt this amendment to give individual States the ability to recognize each other's concealed carry permits. The Senator from South Dakota has said his State welcomes all people who have concealed carry permits. But that was their decision. They made that decision in their State. States are free to form concealed carry reciprocity agreements with other States. Twelve States have already decided to honor conceal and carry permits issued by every other State, obviously including South Dakota. However, 25 other States look carefully at each of the other States and make this decision selectively. They have decided that some States have acceptable standards and some do not. Eleven States and the District of Columbia have chosen not to grant concealed carry reciprocity to any other State. They want their own laws to govern the protection of their own people.

The Thune amendment is a direct assault on those States that have chosen not to allow reciprocity. They are California, Connecticut, Hawaii, Iowa, Maryland, Massachusetts, Nebraska, New Jersey, New York, Oregon, and Rhode Island. Over all, the Thune amendment would override the selective reciprocity or no reciprocity laws of each of the 36 States I have mentioned.

There are good reasons a State might want to be careful with who they allow to carry concealed weapons within their borders. Let me give some examples of what has happened with concealed carry. Washington State resident Clinton Granger obtained a concealed carry permit despite his history

of drug addiction and schizophrenia. In May of 2008, Granger was in a fight at a public festival, fired a shot that hit one person in the face, the second person in the wrist, and then lodged in a third person's leg.

Cincinnati resident Geraldine Beasley obtained an Ohio concealed carry permit, even though she had been previously fined for unlawful transportation of a firearm. In August 2007 she shot and killed a panhandler who asked her for 25 cents at a gas station.

In Moscow, ID, resident and Aryan Nation member Jason Kenneth Hamilton was given a concealed carry permit even though he had a domestic violence conviction. In May 2007, Hamilton went on a shooting spree, killing his wife, a police officer, and a church sexton, and wounding three others.

According to the Violence Policy Center, from May 2007 to April 2009, at least seven law enforcement officers were shot and killed by concealed carry permit holders—these are law enforcement officers—and concealed carry holders were charged in the shooting deaths of at least 43 private citizens during that time.

In light of incidents such as these, it is perfectly reasonable for States to decide what the standards will be for concealed carry. The Thune amendment would override this authority of the States and basically say that visitors from States with a concealed carry law don't have to meet the State's standards where they are visiting.

The Thune amendment is troubling because it leaves law enforcement agencies in the dark about the concealed carry population in their own area. In many States, law enforcement plays a key gatekeeper role, an oversight role on the concealed carry population. Under the Thune amendment, that is impossible. The first person who drives in out of State under the Thune amendment may carry a gun and the law enforcement officials wouldn't even have knowledge of it.

When you look at the Thune amendment, along with the amendment offered earlier this year by Senator ENSIGN that repeals the DC government's local gun laws, we see a disturbing trend. We see Members from that side of the aisle leading an organized effort to strip State and local governments of their ability to keep their own communities safe. There is no justification for this. The Supreme Court's decision in Heller made it clear that although the second amendment right is to be respected in terms of the rights of individuals, there was still authority to deal with this issue of concealed carry. Justice Scalia in the Heller opinion specifically discussed the lawfulness of prohibitions on carrying concealed weapons.

Congress should not require one State's laws to trump another's. New York should not have to let visitors on its city streets be governed by the laws of Alaska when it comes to carrying guns, and it should be up to the State to decide who it will permit to carry concealed weapons within their borders.

This is not a good amendment. America won't be safer if the Thune amendment passes. It has not gone through a hearing in the Senate. The Senator decided to call it up the day before that hearing was set. It guts State laws in 36 States. It will leave law enforcement with no knowledge of who is carrying concealed weapons in their State. It puts guns in the hands of dangerous people who could easily misuse them.

This amendment is opposed by law enforcement organizations, mayors, and State elected officials. I have received letters in opposition to what Senator THUNE calls a very simple amendment from the International Association of Chiefs of Police, the Major Cities Police Chief Association, the U.S. Conference of Mayors, a coalition of 400 mayors called Mayors Against Illegal Guns, Chicago Mayor Richard Daley, a group of State attorneys general, including my own Lisa Madigan, the bipartisan Association of State Legislators Against Illegal Guns, and many others.

The amendment has been criticized in many newspapers, including USA Today, the Miami Herald, the Philadelphia Enquirer, the New York Times, the Washington Post, and Baltimore Sun.

This amendment should be defeated. I urge my colleagues to reject it.

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

Mr. THUNE. Mr. President, let me, if I might, point out some of the statistics, and I will also add in response to the comments of my colleague from Illinois that the amendment was not applied to the District of Columbia.

With respect to the issue of federalism, I think it is important to note that back in 2003, there were 70 cosponsors in the Senate for a piece of legislation that allowed retired law enforcement and current law enforcement officers to carry across State lines—obviously an infringement on this notion of federalism that the Senator from Illinois has raised.

I also would point out that we do know the impact. The Senator from Illinois said we don't know what the impact of this is going to be. Any suggestion about what impacts could occur are very hypothetical. What we do know is that there are a number of States that have already enacted national concealed carry reciprocity agreements. In those States, we also know what the impacts have been. The impacts have been that clearly there has been less crime rather than more.

Studies have shown that there is more defensive gun use by victims than there are crimes committed with firearms in this country. In fact, researchers have estimated that there are as many as 2.5 million defensive uses of firearms in the United States each year, though a lot of those go unreported because no shots are ever fired. There are lots of examples, and I have a list of them here I could go through anecdotally too. These are those that have been recorded by the press where actually the defensive use by a firearm, someone with a concealed carry permit, has actually helped prevent crimes. There are countless examples of those that have been documented and reported by the press, not to mention, as I said, the estimated 2.5 million defensive uses of firearms in the United States each year.

There are estimated to be about 5 million concealed carry permit holders in the United States today. Assuming that every instance reported by gun control groups of improper firearm use by individuals with a concealed carry permit is true—something that can be debated, but assuming that it is true—over an entire year, for over 142,857 permit holders, there would be one—one—improper use of a firearm.

Put another way, concealed carry permit holders would be 15 times less—15 times less—likely than the rest of the public to commit murder.

There are some States—and some large States, frankly—that have issued concealed carry permits, and probably one of the largest States is the State of Florida. They have had a concealed carry permit law in effect in the State of Florida going back to 1987. Yet if you look at the 1.57 million concealed carry permits that people have in the State of Florida, there have only been 167 of those revoked. That is less than one-tenth of 1 percent.

As of 2008, Utah, which allows both residents and nonresidents to acquire concealed carry permits, had 134,398 active concealed handgun permits. Over the past year they have had 12 revocations or .009 percent because of some type of violent crime, but none of those crimes, incidentally, involved the use of a gun. During the 1990s and through the decade of 2000 so far, independent researchers have found 11 cases where a permit holder committed murder with a gun.

I would simply point out to my colleagues that the points that are being made by the Senator from Illinois are largely speculative. If you go back to 1991, the number of privately owned guns has risen by about 90 million to an all-time high. Over that same timeframe, the Nation's murder rate has decreased 46 percent to a 43-year low, and the total violent crime rate has decreased 41 percent to a 35-year low. This at a time—as I said, since 1991, the number of privately owned guns has increased by about 90 million to an all-time high. Also, as I said before, the number of permits that are issued across the country is about 5 million nationally. My State of South Dakota has about 47,000, but it is a small percentage of the overall number of Americans who actually could access or could get a concealed carry permit who do it. Most of them have a reason for doing it. Most of them are going to be

people such as truckdrivers who are going across State lines such as the example I mentioned. There are lots of people who travel.

For example, as another case in point, I have two daughters who are in college. My oldest one will graduate next year. Currently she is in the safe confines of a college campus, but she attends college several States away from our State of South Dakota. When she is out of college next year, I fully expect—and we have discussed this—that she may get a concealed carry permit in the State in which she resides, to have a firearm in order to protect herself, because I think a lot of single women in this country do, particularly those who live in large cities and she would be living in a large city. When she comes home to South Dakota she, of course, traverses several States and during the course of that, she crosses two States where it would be illegal to have a firearm in her possession in her car to protect her as she travels those vast distances across several States.

There are lots of examples I think of people—law-abiding citizens—who, for purposes of self-defense, simply want the opportunity to, in a legal way, transport that firearm and they have concealed carry permits. They have gone through their State's background check—and by the way, all but three States that issue concealed carry permits require background checks, so it is the same thing you would go through in order to buy a firearm.

So the suggestion that all of these people are going to be able to get firearms: The Federal law prevents some of the very examples the Senator from Illinois mentioned from having access to firearms in the first place. Of course, the background checks, with the exception of those three States—as a practical matter those three States, which are New Hampshire, Rhode Island, and Delaware, also go through the background checks. They don't have it as a requirement to get a conceal and carry permit. But background checks are going to be conducted. You are going to find out if there is criminal behavior in the background, mental illness, all of those things which under Federal law would prevent that person from possessing a firearm in the first place.

I reserve the balance of my time. The Senator from Louisiana is here and I assume the Presiding Officer will recognize the other side.

Mr. DURBIN. Mr. President, I yield 6 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mrs. GILLIBRAND. Mr. President, some would suggest that a permit to conceal a gun in one State should provide authority for a legal and valid concealment in another State. I strongly believe that what gun laws are right for New York are not necessarily right for South Dakota and vice versa. States should be able to make decisions and pass reasonable constitutional safety standards based on their public safety requirements, traditions, population, crime rates, and geography.

It is wrong for the Federal Government to overrule a State's ability to enact reasonable, constitutional gun laws designed to prevent alcoholics, criminals, domestic abusers, those with documented grave mental illness, and other potentially violent and dangerous people from carrying guns in our cities.

In fact, Senator THUNE's amendment creates a double standard in recognition of States rights with regard to conceal and carry laws. By allowing exemptions, this amendment validates the laws of States that ban concealed weapons but then strikes down the laws of a State such as New York that maintains basic safety standards for concealed carry permits. At a minimum, New York should be allowed to opt out and have an exemption.

This legislation would eviscerate concealed carry permitting standards, moving to a new national lowest common denominator. This bill would even allow individuals ineligible to obtain a permit in their own State the means to shop around for a lower standard in other States that offer permits to out-of-State residents, undercutting laws that would otherwise render the applicant ineligible.

A study by the Brady Center to Prevent Gun Violence using FBI crime statistics demonstrates that relaxing conceal and carry laws may have an adverse effect on a State's crime rate. Between 1992 and 1998, the violent crime rate in States which kept strict conceal and carry laws fell by an average of 30 percent, whereas violent crime rates dropped by only 15 percent in States with weak conceal and carry laws.

A second concern is a lack of acceptable safety standards in all States. According to the Washington Post, in at least two-thirds of all States some form of safety training is required in order to receive a permit. Abusers of alcohol are prohibited from getting a permit. Those convicted of certain misdemeanors are prohibited.

In many States, statutory requirements are minimal and do not go much beyond the Federal Brady law requirements for purchasing firearms, meaning that some people get conceal and carry permits despite criminal convictions for violent or drug-related misdemeanors, assault, or even stalking.

It is not completely evident what a national overrule of State concealed carry laws might do to local crime numbers, but trends in national crime suggest that State and local governments understand what works in protecting their citizens.

I spoke with our NYPD Commissioner Ray Kelly, who said:

> The Thune amendment would invite chaos in our cities and put the lives of both police officers and members of the public at risk by enabling anyone with an out-of-State permit, including gun traffickers, to carry multiple handguns wherever they go. New York City's strict requirements as to who can carry a concealed weapon have contributed to the city's unparalleled public safety. Our effort, indeed our entire mission, would be severely undercut by this bill. In a city where 90 percent of all guns used in crimes come from out of State, it is easy to see how S. 845 would pose a danger to New Yorkers by greatly increasing the availability of illegal handguns for purchase.

In 2008, New York had the lowest crime rate of the 25 largest cities in the country, and of the 261 cities with more than 100,000 residents, New York's crime rate ranked 246th.

Mayor Michael Bloomberg attributed this success to ''using innovative policing strategies and a focus on keeping guns out of the hands of criminals.''

This week, the Washington Post cited similar success at reducing crime in big cities across the country, stating that New York, Washington, DC, and Los Angeles are on track for fewer killings this year than in the last four decades. This is part of a larger trend in many big cities across the country.

Local and State elected officials and law enforcement officers across the country, such as the International Association of Chiefs of Police and Major Cities Chiefs Association, are speaking out in opposition to this amendment.

Mayors Against Illegal Guns, a bipartisan coalition of more than 450 mayors—including of New York City, Albany, Binghamton, Buffalo, Rochester, and Syracuse—representing more than 56 million Americans, has stated a strong opposition to this amendment.

I stand here today with law enforcement and these cities and States across this country. They know what is best in keeping their communities safe. Commonsense gun laws focused on training, and keeping guns out of the hands of criminals and other dangerous people, are reducing crime, and we should be supporting their efforts, not gutting such basic safety standards.

I strongly believe in our Constitution and the second amendment and Americans' right to defend themselves, but I also strongly support the States' and cities' right to provide basic constitutional and reasonable regulation of firearms.

I urge my colleagues in the Senate to stand up for our local communities and the commonsense gun safety laws.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. THUNE. Mr. President, I yield to the Senator from Louisiana such time as he may consume.

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

Mr. VITTER. Mr. President, I rise in strong support of amendment No. 1618.

I am a proud cosponsor of this amendment, along with dozens of other Senators on a bipartisan basis. I urge all of my colleagues to support this amendment.

The second amendment is a valued constitutional right. Thank God, the

courts, particularly in recent years, have expressly recognized that. Of course, the Supreme Court, in the landmark Heller decision, ruled that ''the individual right to possess and carry weapons in case of confrontation'' is a protected fundamental constitutional right. Even the very liberal Ninth Circuit Court, based in California, ruled that the second amendment right to keep and bear arms is ''deeply rooted in this Nation's history and tradition'' and has long been regarded as the ''true palladium of liberty.'' That court also wrote that ''nothing less than the security of the nation—a defense against both external and internal threats—rests on the provision [second amendment].''

That is why this amendment is a fundamental right. What does that mean in everyday terms? It means the ability of citizens, particularly those more vulnerable in our society, such as women, to protect themselves, people such as Sue Fontenot in Louisiana, who told me:

> When my family and I go out at night, it makes me feel safer just knowing I am able to have my concealed weapon.

It is personal safety and security. It is a fundamental ability to protect one's self, one's family, and one's property. So if that is a fundamental right, and if we have reasonable laws and reasonable permitting processes, why shouldn't Sue Fontenot have that freedom, right, and security when she visits other States, which also allow concealed carry?

This isn't just anecdotal quotes, this is also backed up by criminological studies. Studying crime trends around the country in the United States, John Lott and David Mustard concluded:

> Allowing citizens to carry concealed weapons deters violent crimes. . . . When State concealed hand gun laws went into effect in a county, murders fell by 8.5 percent and rapes and aggravated assaults fell by 5 and 7 percent.

In the 1990s, Gary Kleck and Marc Gertz found guns were used for self-protection about 2.5 million times annually. That number, of course, dwarfs these tiny numbers and anecdotal evidence of limited, very tiny numbers of improper use of guns by folks with concealed carry permits.

Responding to the Kleck and Gertz study, the late Marvin Wolfgang, self-described ''as strong a gun control advocate as can be found among criminologists in this country,'' said he agreed with the methodology of the study.

Our amendment will simply allow law-abiding Americans to exercise their fundamental right to self-defense, by using the full faith and credit clause of our U.S. Constitution.

As we do this, as we protect that fundamental individual right, we also protect States rights. I think it is very important to address some of the arguments with regard to States rights that have been made by the other side.

We do not mandate the right to concealed carry in any State that does not allow the practice. Some States, such as Illinois and Wisconsin, fall into that category. We do not mandate a concealed carry right in those States. In addition, our amendment does not establish national standards for concealed carry. It does not provide a national concealed carry permit. It simply allows citizens who are able to carry in their home States to also carry in other States, but only if those other States have concealed carry permits.

We also respect the law of those other States, in terms of where guns can be carried and where they cannot be carried. So we explicitly respect that State law by requiring that State laws concerning specific times and locations in which firearms may not be carried must be followed by the visiting individual, and that is very important.

Finally, we absolutely protect and enshrine current Federal law, in terms of background checks and people with criminal problems or mental problem, who cannot carry guns. If an individual is prohibited by current Federal law from carrying a firearm, we absolutely protect and enshrine that. Let me say that again. If under current Federal law an individual is prohibited from carrying a gun, that is fully protected.

At the end of the day, this is, again, a fundamental debate about what is the problem in terms of violent crime? Is the problem law-abiding citizens who follow the law, who take all of the time and all of the trouble needed to get concealed carry permits, go through background checks, fill out forms, and do everything that is required by their home States? Is that class of people the fundamental cause of violent crime or is the dominant, 99.9 percent fundamental problem in the violent crime arena people who don't follow the law, who ignore the law, who ignore a concealed carry law, ignore those requirements, as well as every other law on the books—unfortunately, including laws against murder and armed robbery and other violent crime?

Clearly, in the minds of commonsense Americans, it is the latter category of folks that is the problem, not the former. The statistics and the evidence and the history bear that out. So concealed carry is a useful and essential tool for law-abiding citizens to be able to protect themselves and stop and deter violent crime. It is not any significant source of violent crime whatsoever. We have the numbers that bear that out. We have some States that allow reciprocity now. Ten States now allow reciprocity under their State law.

Have they seen incidents of problems with concealed carry permits from other States? No. Have they seen spikes in violent crime because of this reciprocity? No. Again, because this is a fundamental right, and because it goes to people's security, because criminological and other studies are on our side and don't show any spike in violent crime by this but in fact show crimes prevented and deterred by concealed carry, I urge all of my colleagues to support this important reciprocity amendment.

Groups around the country who respect the second amendment and find that a fundamental and important right are certainly supporting this amendment. The National Rifle Association, NRA, is a strong supporter of this amendment. I thank them for that and for their leadership. They are also specifically scoring this amendment in terms of Member votes. Gun Owners of America, another leading gun rights second amendment group, is a strong supporter of this amendment and is specifically pushing for passage and scoring Members' votes. The Owner-Operator Independent Drivers Association, the Passenger-Cargo Security Group, and many other groups around the country are strong supporters of this amendment, because the second amendment is a fundamental right because concealed carry does work, because it prevents crimes and deters crime and doesn't significantly add, in any meaningful way, to the crime problem.

Again, like with a lot of gun control debates, this comes down to a pretty fundamental question: Do you think the big problem with regard to violent crime is the law-abiding citizen, the one who takes the time and goes to the trouble of filling out the forms and following all the rules for concealed carry? I don't. Or do you think the fundamental problem—99.99 percent of the problem—is the criminal who doesn't respect that law, because he doesn't even respect laws against murder, armed robbery, and other violent crimes? That is the problem. Commonsense Americans know that.

This amendment will protect law-abiding citizens and provide another effective and important tool against those criminals who are the problem.

I yield the floor.

Mr. DURBIN. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Illinois has 47 minutes 34 seconds.

Mr. DURBIN. I yield 10 minutes to Senator SCHUMER from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank all my colleagues who are working with us on this amendment. The Senator from California, who will speak after me, has been such a leader on these issues. She and I were commenting that this is probably the most dangerous piece of legislation to the safety of Americans when it comes to guns since the repeal of the assault weapons ban, which she led the charge on to pass. I thank my colleague from New Jersey, Senator LAUTENBERG, who has been a leader on gun issues and has done such a great job; also, Senator MENENDEZ, Senator GILLIBRAND, Senator DURBIN, and so many others who

are working with us today on this issue.

Today we are here to urge all our colleagues to oppose this legislation. The legislation would do nothing less than take State and local gun laws and tear them up. It would take the carefully crafted gun laws in New York and tear them up. It would do the same in 47 other States.

The great irony of this amendment is that the pro-gun lobby has always said: Let the States decide. Now they are doing a 180-degree turn and saying: Let the Federal Government decide and impose the lowest common denominator, when it comes to carrying concealed weapons, on all the States, except Illinois and Wisconsin which do not have any carry laws.

We know the gun lobby is strong. We know there are many Members on both sides of the aisle who believe strongly in an individual's right to carry arms. But this legislation goes way beyond the previous pro-gun laws we have voted on this session. It is a bridge too far. It threatens the safety of millions of Americans, particularly in urban and suburban areas. It directly threatens the safety of millions of New Yorkers. Let me illustrate.

Our neighboring State of Vermont—it is a beautiful State; I have great respect for it and its two Senators—is a rural State. It has a strong libertarian belief, and it has a very lenient concealed carry law. The Vermont law says that if you are 16 years of age, you can apply for a gun license and you automatically get a concealed carry permit and you get the gun. That is all you have to do.

Can you imagine if this law passed what would happen? Known gun runners would go to Vermont, get a gun license, get a concealed carry permit, and they could get 20, 30, 50 guns concealed in a backpack, in a suitcase, and bring them and sell them on the streets of the south Bronx or central Brooklyn, bring them to Central Park or Queens, and our local police would have their hands tied.

One of the points I would like to make to my colleagues about this amendment is it endangers not only the citizenry but our police officers. Today, at about this time, the mayor of the city of New York and our police commissioner will be speaking out against this proposal. Our police commissioner is particularly upset because his job is the safety of police officers. When a police officer stops someone in a car, they now have the safety and sanctity of mind to know that if that person has a gun in their car, it has been approved by the New York City Police Department. There are people who need to carry guns for self-defense or other purposes. After this law passes, they have no such peace of mind, no such safety. Imagine you are a police officer and you stop someone. They could be from 47 different States with 47 different requirements, and you are responsible to figure out if that person has a gun in his car and has the right to carry a gun in his car. It is impossible to do in our larger urban areas.

For that reason, each State has carefully crafted its concealed carry laws in a way that makes the most sense to protect its citizens. Clearly, large urban areas, such as New York, merit different standards than rural areas, such as Wyoming. To gut the ability of local police and sheriffs to determine who should be able to carry a concealed weapon makes no sense. It could reverse the dramatic success we have had in reducing crime in most parts of America.

That is one point I wish to stress. One of the things I am proudest of, what our government has done over the last 20 years—Federal, State, local—is greatly reduce crime. My city of New York gained 1 million people, I think, in large part because people were no longer afraid to come and live in New York. If you ask the experts—not me, not Senator THUNE, not any of us who have political beliefs that might differ—ask the police experts: What is one of the top reasons we have been able to reduce crime in our cities, it is that we have had reasonable laws on guns, and we have allowed our larger urban, more crime-ridden areas to have stricter laws than our rural areas.

I understand in my State of New York that guns are a way of life in large parts of the State, and I respect that. The Heller decision is a decision I welcomed. I talked about the right to bear arms in the Constitution. I believed in it even before Heller. But you know—and this is what I would like to say to my friends on the other side of the aisle and in the NRA—no amendment is absolute. You are right when you say: Why should the first, third, fourth, fifth, and sixth amendments be expanded as far as we can and the second amendment be seen through a pinhole of militias? You are right. But similarly, no amendment is absolute.

Most of my colleagues on both sides of the aisle support laws preventing the spread of pornography. That is an infringement of the first amendment but a reasonable one because there is a balancing test. Most of my friends on both sides of the aisle would support libel laws. If somebody says something very defamatory about a citizen, they should have the right to sue, of course. That is a limitation on the first amendment. We don't rail against it.

The concealed carry laws of the States are reasonable limits on the second amendment. If you are to believe the second amendment should have no limits, of course, you would vote for this amendment. But then I ask you the contrary question that some who are pro-gun ask those of us who believe in more gun control. How is it that the second amendment should have no limits but the first, third, fourth, fifth, sixth, seventh, and eighth should have limits? Of course, if reasonable limits in a balancing test exist, and if there is any balancing test that makes sense, it is the one of allowing each State to come up with its concealed carry law.

I don't think this is an amendment of which anyone can be proud. I understand the power of the gun lobby. I understand we have different beliefs and represent different States. But we are not trying to say what South Dakota should do. Why should South Dakota say what New York or California should do?

When I spoke—and I have great respect for the sponsor of this amendment—when we were speaking in the gym yesterday morning, he said one of the problems he hears about in his area—and I understand it—is a truckdriver in the cab of his truck carries a gun and is allowed to carry a gun. Why should that truckdriver, when he crosses State lines, goes from South Dakota to North Dakota, be limited? I can understand that argument. But this amendment goes way beyond that. It doesn't talk about one weapon. It doesn't talk about a person who has been granted a license because he needs it for protection as he commerces across State lines. It is unlimited based on whatever the lowest common denominator State would do.

The PRESIDING OFFICER (Mr. BEGICH). The Senator's time has expired.

The Senator from South Dakota.

Mr. THUNE. Mr. President, a couple quick observations, if I may. First, I need to correct for the record the State of South Dakota has reciprocity agreements with 27 States. It does not have national reciprocity, which I think gets at the very point I am making; that is, anybody who has a concealed carry permit in one State is so confused by this patchwork of laws we have that they cannot determine which State is legal and which State is not legal. That is a very serious problem for people such as truckdrivers, such as individuals who want to protect themselves when they travel across the country.

In terms of the arguments made to individuals who have access to firearms, the 1968 Gun Control Act prohibits individuals from even possessing a firearm if the individual is under indictment or convicted of a crime punishable by more than a year, is an unlawful user or addict of a controlled substance, has been adjudicated to be mentally ill or committed involuntarily to a mental institution, is subject to a court order restraining him or her from domestic violence or has been convicted of a domestic violence misdemeanor.

My amendment does nothing to change Federal law. But if individuals are not allowed to possess a firearm, they certainly are not going to be able to conceal and carry one.

I might add, with regard to the issue taking multiple guns in a sack and transporting them, there are Federal laws that prevent trafficking in firearms already. We do nothing to address

that issue. What we simply do is allow those law-abiding citizens who have concealed carry permits in their home States and choose to defend themselves when they travel around the country to do that.

Florida is a case in point. Florida is a big State that has had concealed carry permits for over 20 years and has agreements with multiple States. There is no evidence whatsoever in the State of Florida that there has been any suggestion of increasing crime.

Rather, I suggest the opposite would be true. I say to my colleague from New York that if someone who has a concealed carry permit travels to the State of New York, and I will say anybody who has a concealed carry permit from the State of South Dakota goes to New York and is in Central Park, Central Park would be a much safer place.

I yield 10 minutes to the Senator from South Carolina.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. THUNE. I yielded time to the Senator from South Carolina. I will be happy to yield for a question later on the time of the Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be given 30 seconds to ask the Senator a question.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. I object, Mr. President. The Senator from South Carolina has been yielded time.

The PRESIDING OFFICER. Objection is heard. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I always thought this debate kind of went down the side of liberal versus conservative until I got to understand during the confirmation hearings of Judge Sotomayor that Senator FEINGOLD is probably one of the strongest gun guys in the Senate. So I have had to recalibrate where I stand on this issue in terms of trying to pigeonhole people.

The point of the amendment, No. 1, is it should not be on the Defense bill. I think we all agree with that. We are talking about a Defense authorization bill to protect our troops and provide them the equipment they need and give them a pay raise. Now we are talking about guns and hate crimes. I don't know how we got here as a body, but we are here.

If you had to pick a nongermane amendment to talk about that makes some sense, that most Americans, I think, would like us to be talking about, it would be something fundamental to our country. I think most Americans are a little bit right to center on an issue such as this, for lack of a better phraseology. Most Americans believe in lawful and responsible gun ownership. Quite frankly, that is what this is trying to bolster.

I make an observation that if you take the time to get a concealed carry permit in South Carolina or any other State that allows it, you let the law enforcement authorities know you are interested in owning a gun, you go to a training seminar that most States have to be able to get the permit or you have to go through whatever hoops the State set up to be able to carry a weapon in a concealed fashion, that you are probably not high on the list of people who want to use a gun to commit a crime. You would be incredibly stupid. You are pointing out to the whole State: Hey, I have a gun. I argue that the people who go through the exercise of getting a concealed carry permit are the ones you probably want to have a gun because they seem to understand the responsibility that goes with owning it.

The idea of does this make us less safe by allowing reciprocity nationwide makes no sense to me. I think of all the people we need to worry about committing gun crimes and violence unlawfully, the people with concealed carry permits are probably last on the list.

Americans do object to guns being used in the commission of crimes, and a lot of States have enhanced punishment whereby if you use a firearm in the commission of a crime your incarceration time can go up. In other words, we want to deter people from using a gun in the commission of a crime, and I think most Americans agree with those laws. I think the city of Richmond was one of the first cities in the Nation to have enhanced punishment for the use of a weapon. It is true that some people do misuse a weapon. Some people misuse a car. But it is a fundamental right under our Constitution, according to our Supreme Court, to possess a gun.

This amendment makes sense at every level. If I go through the process of getting a concealed carry permit in South Carolina and I go to another State that has a similar law, I automatically get the benefit of that law—no more than that law. So I don't know what the law is about carrying a gun in Central Park in New York. I know this: If you have a permit to carry a gun in South Dakota or South Carolina and you go to New York, you don't have any greater rights than the people in New York. And I also understand that whatever Federal restrictions on gun ownership that exist are not changed by this.

So this is pretty common sense to me. If someone goes through the process of getting a permit to carry a weapon in their own State and they choose to go to another State, they automatically get the benefit of that State's law when it comes to concealed carry. They do not get any more, they do not get any less, and it may be less than I would have in South Carolina. But because we are a group of people who travel around and visit among ourselves, this Federal legislation allows us to go from one State to the next and get the benefit of any law that may exist when it comes to concealed carry. But the precondition is that you would have to have that permit in your own State and you have to go through the rigors of getting that permit in your own State.

To anybody who says this makes America less safe or more dangerous, again, that just makes no sense to me. Whatever gun crimes are being committed out there, they are not being committed, as an overwhelming general rule, by the people who have gone through the process of getting a permit and who carry a weapon. So, to me, it makes sense.

I congratulate my friend from South Dakota and tell him he has done something I think most Americans would agree with. He has allowed the American public to be able to travel and get the benefit of whatever law exists in a State when it comes to carrying a weapon—no more, no less. And this argument that people are somehow going to start carrying a weapon across the border makes no sense because whatever Federal restrictions there are on arms trafficking still stand.

At the end of the day, this legislation will help people who follow the law and obey gun laws to travel throughout the country without tripping themselves up and getting in trouble when they do not mean to get in trouble. If we didn't have this law, it really would be a mess. What we are trying to do is provide some clarity to gun ownership in America. We are not enhancing the ability to commit a crime. Quite frankly, I think it is the other way around; if everybody had the same attitude about gun ownership as people who get a permit, the country would be okay.

We are not changing any law that regulates trafficking of firearms. We are not allowing criminals to get access to guns. We are simply allowing people who go through the process of getting a permit in their own State to travel to any State in the Union which has a similar law and to get the benefit of that law. That will make life better for them, it will make life better in terms of legal compliance, and I think it is a proper role for the Federal Government to play.

This amendment enhances our second amendment rights. It doesn't change them in a way that makes America less safe. It allows people who are going to do the right thing to be able to do the right thing with some knowledge as to what the right thing is.

So Senator THUNE has done the country a great service, and I think we will have a big vote—I hope we will—across party lines. You don't have to agree with my right to carry a weapon lawfully. You may not choose that same right for yourself. But that is kind of what makes the country great—the ability for one citizen to understand that even though I wouldn't make that choice, as long as you make a choice responsibly, I am going to allow you to do that. That is what makes this a very special place.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Thirty-seven minutes 13 seconds.

Mr. DURBIN. Mr. President, I would say for the record that I have many more Democrats seeking time than I have time. I wish to alert those who are coming to the floor that they are going to have to accept an abbreviated time. We did not have all the time we hoped for this morning. I ask each of my speakers to also try to abbreviate their time in the interest of accommodating their colleagues.

I yield 15 minutes to Senator FEINSTEIN and hope that she will yield back a sizeable portion of it.

Mrs. FEINSTEIN. I rise today to speak in strong opposition to this amendment. If passed, this amendment would require States like California to allow people with concealed weapon permits from other States to carry a concealed gun, or guns, even if they have failed to meet California's stringent requirements for obtaining a permit.

Over 4 million people hold concealed weapon permits in the United States, so this is no minor shift in policy. In fact, it would be a sweeping change with deadly consequences.

It completely undermines the rights of State government to protect public safety. This amendment essentially overturns the standards and regulations that many States have enacted to prevent concealed weapons from falling into the wrong hands. This is not a philosophical debate, it is a matter of life and death.

My home State, California, sets a very high bar for those who wish to obtain a concealed weapon permit. It does not honor permits granted elsewhere. In fact, only 40,000 permits have been granted in California and we have a population of 38.2 million people. Contrast that with Florida, a State of about half the size at 18 million people—it has 580,000 permits; Georgia has 300,000 permits. Let me repeat, California, the nation's most populace State, has but 40,000 concealed carry permits.

California's strict rules ensure that felons, the mentally ill, and people who have been convicted of certain misdemeanor offenses or are considered a threat to others are automatically disqualified.

Those who do meet these qualifications do not automatically receive a permit. Specifically, in order to obtain a concealed weapon permit in California, an applicant must, No. 1, undergo fingerprinting and pass through a Federal background check; No. 2, complete a course of gun training; No. 3, be considered a person of good moral character by the local sheriff; and No. 4, just as importantly, demonstrate a good cause for needing a concealed weapon permit. This gives State and local authorities the discretion.

This amendment will force California to honor permits issued by all other States, including those which allow minors, convicted criminals, and people with no firearm safety training to carry concealed weapons. Only the time, place, and manner requirements of a State would remain intact under the Thune amendment. For example, if the State of South Carolina had a law making it illegal to carry a weapon into an office building that was government owned, that law would still be valid for all out-of-State concealed carry permit holders. However, this is a very narrow exception.

This isn't just bad policy, it is extremely dangerous policy. The Thune amendment is designed to undermine the rights of States to determine their own rules and regulations for concealed weapons permits. Here we have people who believe in States rights. Yet when it comes to something they really want, they are willing to pounce on States rights and destroy them.

California's standards, I admit, are tougher than most, but many other States routinely deny concealed weapon permits for various reasons: 31 States prohibit alcohol abusers from obtaining concealed carry permits; 35 States prohibit persons convicted of misdemeanors from carrying concealed weapons; 31 States require completion of gun safety programs. The Thune amendment obliterates all of these public safety standards.

It is important to note that 12 States voluntarily honor concealed weapon permits carried in any other State. Another 25 States recognize permits issued by States with similar or equivalent concealed weapon permits standards. But 11 States, including California, choose not to recognize any out-of-State permits. These States have made a choice about what is best for their citizens, and that choice ought to be respected. This amendment says that the views of California's Governor, sheriffs, police, and its citizens don't matter, but the views of those who promote guns do matter. I cannot accept that.

If this amendment were to pass, it would possibly allow those with concealed weapon permits to bring one or more banned assault weapons into our State.

We have consulted with the Congressional Research Service, and they state the following:

> The amendment would appear to have a preemptive effect on State reciprocity laws or regulations because it would appear to require those States which have more stringent eligibility requirements for concealed carry to recognize the permits of other States where the eligibility requirements are less stringent.
>
> It could be argued that the language of this amendment is broad enough such that it would allow certain firearms that are banned from purchase or possession in one State to be brought into that State. For example, one could legally purchase, possess, and carry a concealed permit for a firearm that is banned in States like California, Connecticut, Hawaii, Massachusetts, New Jersey, and New York.

That is not my statement, that is the opinion of the Congressional Research Service. This amendment would put in jeopardy States' assault weapons control laws. I don't know whether that was intended, but this is a very broad and vague piece of legislation that is being debated. If this amendment is agreed to, I believe assault weapons will be brought into California and other border States. These weapons could end up being smuggled into Mexico.

Some say, that an armed society is a polite society, and they portray concealed weapon carriers as responsible citizens who are simply exercising their rights. Earlier this morning on television, I heard a Senator say that only good, responsible people have these permits. That simply is not true. Let me give an example.

In April, Richard Poplawski killed three Pittsburgh police officers. He had the right to carry a weapon in Pennsylvania even though he was the subject of a restraining order filed by an ex-girlfriend.

In March, Michael McLendon killed 11 people, including the wife of a deputy sheriff, before taking his own life following a gun battle with police in Alabama. He too, had a concealed weapon permit.

When I hear people on television saying only the good people get these permits, that is simply not true. In my view, these unstable men should never have been permitted to own any weapon for any reason. Lastly, in February of this year, Frank Garcia killed four people in a shooting rampage in upstate New York. He held a concealed weapon permit in that State. This year, too many people have been killed by those who have the right to carry a concealed weapon. We do not want other State's concealed weapons permitees in the State of California. We have 38 million people. It is a diverse, disparate population. Guns do not help. I believe it is unlikely these men would have obtained concealed weapon permits in my State and, candidly, we want to keep it that way.

I ask unanimous consent to have printed in the RECORD a letter from the Governor of our State, Arnold Schwarzenegger, who opposes this amendment, along with 400 U.S. mayors and the International Association of Chiefs of Police.

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

STATE CAPITOL,
Sacramento, CA, July 20, 2009.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN. I am writing to seek your assistance in protecting states' rights by opposing Senator Thune's amendment to the Concealed Carry Reciprocity Act, which would allow people who are issued concealed weapons permits in their home state to carry those weapons in any state. This amendment would undermine the rights and responsibilities of state governments across this nation.

This is a simple question of protecting California's ability to determine who is allowed to carry a concealed weapon within

our borders. Other states have less stringent requirements than ours, which means that a permit holder who would be ineligible for a concealed weapon under California law would be able to obtain a permit from another state and, under Senator Thune's amendment, still carry that weapon in California.

Our elected representatives—with the support of the majority of Californians—have set guidelines that are stricter than most states'. In California, background checks are conducted using a fingerprint-based system so the state can verify that the recipient of the permit is eligible to possess a firearm under state and federal law. Also, if a person becomes ineligible to possess a firearm because he or she was convicted of a felony or other disqualifying crime, that information is forwarded to their local agency so the permit can be revoked.

I have consistently supported states' rights to determine their own fates on a variety of issues. This amendment would trample the rights I have worked hard to protect, and I urge your opposition:

Sincerely,

ARNOLD SCHWARZENEGGER,
Governor.

Mrs. FEINSTEIN. I believe the amendment is reckless. I believe it is irresponsible. I believe it will lead to more weapons and more violence in the streets of our Nation. I hope and pray this body will turn down this very ill-advised amendment.

I yield the floor.

Mr. DURBIN. Mr. President, may I inquire how much time is remaining?

The PRESIDING OFFICER. The time remaining is 25 minutes 4 seconds.

Mr. DURBIN. The other side.

The PRESIDING OFFICER. There remains 32 minutes 37 seconds.

Mr. THUNE. Mr. President, I yield up to 15 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I rise in support of this amendment. I believe it is reasonable. It is not as draconian in its implications as many of my colleagues, whom I greatly respect in terms of their concerns, are anticipating.

I would also like to say there has been a lot of misinformation on the Senate floor about this amendment, to the effect it will allow felons, people who are mentally defective, and other dangerous individuals to carry weapons on the streets of American cities and also to buy up hordes of guns and transport them into places, as Senator SCHUMER mentioned, such as New York City. My colleague from New York gave as an example, in his terms, a Crip or a Blood moving to Vermont, establishing residency, then bringing a permit down into New York and being able to carry a weapon with impunity.

I think the reality of that particular situation is the gang members already have their guns. They don't need this bill. In fact, this amendment has protections that would prevent those who engage in criminal activity—such as gang members—from taking advantage of this legislation. The people who need this bill are the ones the gang members might be threatening.

With respect to standards of conduct, aspects of criminality, and issues of mental health, it is important to note there is a Federal floor under this amendment that guarantees certain standards will be met regardless of varying State standards. If you read the amendment, it states:

A person who is not prohibited by Federal law from possessing, transporting, shipping or receiving a firearm—and who meets other conditions, may be granted reciprocity.

If you go into the Federal law, and I am going to read from 27 CFR section 478—this is the current standard in terms of being able to possess a firearm or ammunition.

Anyone who—

Has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

May not possess a firearm.

Anyone who:

Is a fugitive from justice;

Anyone who:

Is an unlawful user or addicted to any controlled substance;

Anyone who:

Has been adjudicated as mentally defective or has been committed to a mental institution;

Anyone who:

Is an alien or illegally or unlawfully in the United States or an alien admitted to the United States under a nonimmigrant visa;

Anyone who:

Has been discharged from the Armed Forces under dishonorable conditions;

Anyone who:

Having been a citizen of the United States, has renounced his or her citizenship;

Anyone who:

Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner; or

Anyone who:

Has been convicted of a misdemeanor crime of domestic violence—cannot lawfully receive, possess, ship, or transport a firearm.

In addition:

A person who is under indictment for a crime punishable by imprisonment for a term exceeding 1 year cannot lawfully receive a firearm.

Those are the Federal guarantees, the floor under which this reciprocity legislation operates.

Senator LAUTENBERG has said in his comments that passing this legislation is akin to allowing someone from another State to come into your State and follow their speed limits. This is not an accurate interpretation of this amendment. The amendment specifically provides that anyone carrying a firearm into another State must follow the laws regarding firearms usage in that State, and I quote from the amendment:

. . . in a State that allows residents of the State to obtain licenses or permits to carry concealed firearms . . .

A person gaining reciprocity is:

Entitled to carry such a firearm subject to the same laws and conditions that govern specific places and manner in which a firearm may be carried by a person issued a permit by the State in which the firearm is carried.

I would say the better analogy at work here is the driver's licensing process itself. States decide the conditions under which a license can be granted, but the nature of interstate travel allows licenses issued in another State to be recognized across the country, so long as the holders of those licenses obey the laws of the State in which they are driving.

I also keep hearing that this amendment will increase the number of purchases of handguns and other weapons. I would like to clarify for this body, as someone who holds a concealed carry permit, a permit to carry does not allow anyone to purchase a firearm automatically. One still has to go through the entire process of the background check as if you did not have a permit.

Illegal firearms sales are a separate matter for this body to address—one that we clearly should be focusing on—but they fall outside the parameters of this amendment.

The issue of gun usage in our country understandably divides people—usually along the lines of those who believe that any relaxation of gun laws will benefit criminal and violent activity versus those who believe gun laws need to be modified in order to allow law-abiding people to defend themselves. I have a great deal of empathy for those who have been the victims of gun violence. I have worked with citizens groups as well as our Governor in the aftermath of the Virginia Tech shootings, to focus our approach. We have made significant improvements in our laws since then, including working to modify privacy laws as they relate to mental health matters, which was the primary concern in the Virginia Tech shooting, and also to improve the instant background check process. I will continue to work on these areas.

I also believe very strongly that the violence we see in our streets and in our neighborhoods must be addressed. But very little of that violence has ever been caused by those who seek permits to carry. As I mentioned before, the people who are perpetrating that kind of violence already have their guns. Their access to those guns is a matter we should all focus on. But few criminals are going to go down to the county courthouse and file for a permit. Those who seek permits to carry and who are within the Federal guidelines specifically addressed in this bill seek to do so in order to protect themselves from the violence we see on our streets.

I would say, when I look at this amendment, a couple clear examples come to mind. One is my father who, in his later years, lived in Florida and then Arkansas, and would drive alone in his car to come and visit me and my brother, who lived in Minnesota. It was usually at least a 2-day journey. My father was older. He was by himself in

the car. He was a classic target of potential criminal activity.

He carried a weapon, a firearm, when he traveled. When he stopped at night and went into a motel, he brought that weapon with him. You check in a motel by yourself, you are 77 years old, people are going to start looking at you. I don't think people who are in that situation need to wonder if they are committing a felony by having a gun to be able to defend themselves when they are in that situation.

Somebody else who comes to mind are all these truck drivers we see on the roads anytime we are on the interstate. These are independent contractors. They are people who are out there making a living the hard way. They constantly cross State boundaries. They have to worry about whether their truck is going to break down. They have to wonder sometimes, where they stop, whether they are going to be victimized if they sleep in the cabin of their own truck. Many can legally carry in their own State. Do they have to worry, if they pull over for the night in another State, if they try to defend themselves they are committing a felony? This is the type of situation I believe this legislation is attempting to address.

I believe it will have a beneficial effect. I believe strongly we need to work together in this body to address other situations of gun violence in this country. I am glad to add whatever insights I can have to do so, but I support this legislation and I intend to vote for it.

I yield the floor.

Mr. DURBIN. Mr. President, I yield 9 minutes to the Senator from New Jersey, Senator MENENDEZ.

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

Mr. MENENDEZ. Mr. President, I come to the floor saddened by the tragic death yesterday of Marc Dinardo, 1 of 5 of New Jersey's finest police officers shot last week by a gunman. He was killed, not by a law-abiding gun owner like millions of Americans, a sportsman or a hunter, but by one lone armed man, too willing to pull the trigger to kill another human being in cold blood.

Last night, or the night before, gunshots were fired in Jersey City. In Newark, three people were killed, the victims of gun violence.

The statistics are staggering. In 1 year, 30,896 people died from gun violence, 12,791 people were murdered, another 69,863 people survived gun injuries, 48,676 people were injured in a gun attack.

According to the Brady campaign, in 1 year, 20,784 American children and teens were shot in murders, assaults, suicides, accidents or by police intervention. Homicide was the second leading cause of death for young people ages 10 to 24 years old, and 84 percent of victims were killed by a firearm. Amazingly, firearm homicide is the second leading cause of death for young people ages 1 to 19.

These numbers are shocking. I think about what this amendment does, whom it affects, and I cannot help but ask who is it who feels the need to carry a concealed weapon and for what purpose? One must ask how we would ever want to permit, as a matter not of State but Federal law, those whose motives may not be pure to walk into a playground, school, crowded stadium in any State licensed under Federal law to carry a concealed weapon in their coat pocket or bag. Do we honestly believe that person will be the priest or the rabbi? Do we think it will be the mother taking her child to a school, saying: Let me think, I have the house keys, the cell phone—oh yes, the permit for the gun in my bag.

Will it be the law-abiding sportsmen using their rifles for target practice? Sportsmen don't need to conceal their weapons.

Whom do we think will benefit from this amendment? Whom do we think will carry a concealed Glock 39 through the streets of our cities, perhaps into a playground, stadium, church or mosque? It will not be that mother or that hunter. It will not be that sportsman. As Paul Helmke, the president of the Brady Campaign, so aptly pointed out, it will be something like Richard Poplowski, the White supremacist, armed with an AK–47, who allegedly murdered three Pittsburgh police officers on his front porch.

He was a concealed carry permit holder. It will be Michael McClendon, the suicide shooter who went on a rampage in Alabama, murdered ten people, then shot himself. He too was a concealed weapon carry permit holder.

It will be criminals such as Michael Iheme, charged with first-degree murder in the shooting death of his wife in St. Louis Park, MN. She had an active restraining order against her husband because of a history of domestic violence. After shooting his wife, he called 911 and said, ''I killed that woman that messed my life up.'' He was a concealed carry permit holder as well.

We are being asked to seriously consider an amendment that would benefit those criminals, not their victims, an amendment that would override State laws and federally mandate States to recognize the concealed weapon permits of people such as these three notorious criminals, even though they may not be residents of that State, even though they may be legally barred from possessing weapons in that State.

Let's make no mistake, this amendment is a blatant infringement on States rights, a stealth repeal of States' hard-fought gun laws. It strips legislators and Governors duly elected by the people to represent the best interests of their constituents to make sound, competent, informed judgments about how best to regulate guns in their own State, to make those judgments based on the recommendations and input of law enforcement officials who know and understand the specific situation on the ground, on the street, in their cities, in their communities.

Even the Congressional Research Service has found this amendment would have a preemptive effect on State reciprocity laws. They said in their report:

> This amendment is broad enough such that it would allow certain firearms that are banned from purchase or possession in one State to be brought into that State. For example, one could legally purchase, possess, and carry a concealed permit for a firearm that is banned in States such as California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York.

In my view, this would turn the clock back on reasonable, responsible gun laws that States such as New Jersey have passed to protect us from men like Richard Poplowski, Michael McLendon, and Michael Iheme. On the contrary, common sense, logic, reason, rationality, good judgment all say that that amendment will make our streets less safe.

And, contrary to the usual approach of my Republican colleagues to maximize States rights, this amendment will trample the right of States to pass their own laws that keep guns out of the hands of criminals.

Too many times, for too long, we have seen blood on our streets from senseless, pointless, lethal gun violence. We have tried, in our States and in this Chamber, to mitigate it. We have tried in our own ways to stop it. We have all been outraged at those who, in language, attitude, and demeanor, seem to accept it as part of American culture. I do not accept it as such.

We cannot stand down from battle being waged by law enforcement in every city and State against gun violence in our streets. Our charge, our solemn responsibility, is to end the violence, not add to it. There are too many guns on our streets as it is, but there are also too many people willing to use them.

Let's not make it easier to carry a concealed weapon against the wishes of the people of a State whose elected representatives express their will and say, not in our State, to blithely, legally have a Federal mandate that would permit them to cross State lines into your neighborhood or my neighborhood.

The evidence is before us in the names of Richard Poplowski, Michael McLendon, and Michael Iheme, all of whom had permits to carry a concealed weapon. If their States want to permit it, fine, but why should they come into my State and create the opportunity to murder some innocent family when my State, my government, my legislature has determined that, in fact, there is a better way to protect our citizens.

When we go down this road, it is a slippery slope. Some day, some Federal issue will come in your State and you will not want the Federal Government to tell your State how to protect your citizens. If you permit this to happen today, then it will happen tomorrow in a way that you will not like. That is a dangerous precedent. That is a precedent I do not think we want.

Finally, let us remember the victims. Let us remember Officer Marc Dinardo and all of the victims of gun violence who, in fact, are out there protecting us each and every day. They will not know the good guy from the bad guy. They will know if this amendment passes and becomes law that someone could have a concealed weapon on them. At the end of their day, their lives will be greater at risk. That is not something I want on my conscience. I do not know which Member of the Senate wants it on theirs.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I do not want to get into the weeds here, but the Senator mentioned Michael Iheme. He did not have a carry permit. One of the other gentleman whom he mentioned, Willie Donaldson, evidently the court recognized that the person had acted in self-defense and he did not do any jail time for it.

The broader point is, criminals commit crimes, that is what they do. Criminals kill people. This is not directed at criminals, this is directed at law-abiding citizens who want to protect themselves. The statistics I mentioned earlier make it very clear. If you want to look at the studies, there is a lot more defensive gun use by victims than there are crimes committed with firearms. It is further estimated that there are as many as 2.5 million defensive uses of firearms in the United States each year. Again, many of those go unreported.

But I think you have to come back to the point that of the 5 million people in this country who are concealed carry permit holders, if you assumed that every instance of reported crime by gun control groups, of improper firearm use by individuals with concealed carry permits, if every one of those is true, something that can be debated, but let's assume it is true, over an entire year for every 142,857 permit holders, there would be one improper use of a firearm.

To put that another way, concealed carry permit holders would be 15 times less likely than the rest of the general public to commit murder. The point I am making is criminals commit crimes. That is what they do. They are criminals. Criminals kill people. What we are trying to do here is to allow law-abiding people to protect themselves from criminals when they travel across State lines, striking the right balance between Federal, the Constitution, which protects an individual's second amendment right, and State laws. We are not preempting State laws. Illinois and Wisconsin preclude or prevent anybody from owning a concealed carry permit or having a concealed carry permit in their States. So this amendment does not even apply to them. Nobody can carry a concealed weapon in either of those States. It recognizes the rights of States and all of the State laws that apply. Most States have place and time restrictions. In my State of South Dakota you cannot carry in a place that serves alcohol, you cannot carry in schools, you cannot carry in courthouses.

So to suggest that somebody is going to transport a whole bunch of guns, which would be a violation of Federal laws because there are laws against trafficking, into an area of a State, public school, or someplace like that, are wild exaggerations and scare tactics that are not based on any evidence. The data we have that suggest the contrary.

I yield such time to the Senator from Wyoming as he may consume.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, today I rise in support of the Thune amendment. The Thune amendment to me is very straightforward. It does not preempt State concealed carry laws, it does not create a Federal concealed carry permit. It simply allows law-abiding individuals, law-abiding individuals to lawfully carry concealed firearms across State lines while following the laws of the host State.

Just like a driver's license—this is my Wyoming driver's license—just like a driver's license, the Thune amendment is a license for self-defense across State lines. It means with this license—my concealed carry license from Wyoming—I will not be limited to Wyoming. Just like a regular driver's license, just about the same photo, identification issues, and the only difference is this one from Wyoming says ''concealed firearm permit.'' It has on it a picture of a handgun.

Well, today we are hearing the same arguments against the Thune amendment that we heard from the people who wanted to ban assault weapons. During that semiautomatic assault weapons debate, we heard all of the scare tactics. We heard: There will be blood all over the streets. Terrorists will be able to purchase Uzis and AK–47s. Our cities will turn into the Wild West. The lives of law enforcement will be in danger.

This is simply not the case. A study for the Department of Justice found 40 percent of felons had not committed certain crimes because they feared the potential victims would be armed.

The National Institute of Justice conducted a survey that found that 74 percent of criminals who had committed burglaries or violent crimes said they would be less likely to commit a crime if they thought the victim would be armed.

In States where concealed carry permits are issued, it is a fact that the crime rates go down. Let's take a look at Illinois and Florida. Illinois does not allow concealed carry permits. The number of murders last year in Chicago, 511.

Since Florida passed their concealed carry bill and signed it into law, violent crime has dropped by 32 percent, and murders in Florida dropped 58 percent.

Criminals do not get licensed to carry guns. Criminals do not fill out the paperwork, go to the courthouse, get fingerprinted, and wait weeks to receive their concealed carry permit. Criminals issue their own concealed carry permits.

In the District of Columbia, crime rates are high because the criminals have the advantage over the victims. The gun laws in the District outlaw law-abiding citizens from self-defense while people walk home from work or from the store. They know it is highly unlikely in the District of Columbia that the victims will be carrying a gun for self-defense.

This is a commonsense amendment. It makes sense for law-abiding gun owners all across the country. I urge my colleagues to vote in support of the Thune amendment.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask that the Senator from New Jersey be recognized for 9 minutes and then, after an intervening speaker on the other side of the aisle, the Senator from California be recognized for 5 minutes.

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

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise in strong opposition to the amendment that is being offered, because it would override our safety laws, gun safety laws in my State and other States across the country. The Thune amendment is an outright violation of States rights.

The fact is this vote is not about the Second Amendment, it is not about gun rights, this is about respecting local communities and letting them make their own decisions about how to keep their streets, their homes, and their businesses safe.

As this dangerous amendment gets pushed to a vote, we are seeing opposition grow across this country. In addition to newspaper editorials, we are seeing Governors and mayors and local law enforcement calling on the Senate to vote against this amendment.

This placard shows the wide-ranging groups opposing this amendment, groups opposed to the Thune amendment: Over 450 mayors, people who have responsibility for those in their community, Major Cities Chiefs Association, International Association of Chiefs of Police, State Legislators Against Illegal Guns, National Network to End Domestic Violence.

In a letter to the Senate, the International Association of Chiefs of Police implored Congress to:

> Act quickly and take all necessary steps to defeat this dangerous and unacceptable legislation.

That is from the International Association of Chiefs of Police. They know what to do about concealed guns, and they will decide within their own communities. But the Thune amendment

does not just steal States of their right to create their own laws, it abolishes State laws that are on the books right now. The Thune amendment throws State laws out the window.

For the 35 States that have chosen to keep criminals with misdemeanor convictions from carrying concealed weapons, this amendment abolishes their laws. For the 31 States that have chosen to keep alcohol abusers from carrying concealed weapons, this amendment abolishes their laws.

The Thune amendment would force States to accept the weakest standard in the country and brings about a race to the bottom. Many of us represent States that do not want lax standards on who can walk around our communities with a weapon hidden in their garments.

To make matters worse, the Thune amendment not only overrides a State's concealed weapons laws, it could also override a State's assault weapons ban. That means if we have a ban in my State and someone gets a concealed weapons permit, they could bring an assault weapon into our State. This means even if a State has a ban on assault weapons, under this amendment, someone could legally enter that State with a hidden Uzi or assault weapon and travel around with it. Think about it. If a State's residents are not permitted to carry a particular weapon, someone can come into that State with a weapon that now is prohibited in that State.

That is one of the reasons more than 450 mayors across the country have expressed alarm about the Thune amendment. As these mayors explained in a letter to the Congress:

> Each state ought to have the ability to decide whether to accept concealed carry permits issued in other states.

I don't want it in New Jersey, and I think Members across this Chamber will say: No, I don't want it in my State as well.

Supporters of this amendment like to claim that only law-abiding citizens get their hands on concealed weapons permits. But that is not true. In Alaska, for example, criminals who have repeatedly committed violent misdemeanors are permitted to carry concealed weapons. In Alaska, criminals who have repeatedly committed sex offenses are permitted to carry concealed weapons. According to a new study, during the 2-year period between May 2007 and April 2009, people holding concealed handgun permits killed at least 7 police officers and 44 other innocent people across the country.

Recently we have seen several gruesome examples of senseless murders committed by people holding concealed weapons permits. A few months ago, a 28-year-old concealed weapons permit holder went on a murderous rampage in Alabama. First he shot and killed his mother. Then he gunned down 10 others, including 2 young mothers and a father and an 18-month-old girl.

A few weeks later, another concealed weapons permit holder went on a killing spree in Binghamton, NY. This gunman drove a car up to a citizenship services center and barricaded the back door with his car so the innocent people who were inside would be trapped as he proceeded to kill those who were in his sights. The gunman sprayed gunfire throughout the center, killed 13 people, and wounded several more before taking his own life.

The next day another concealed carry permit holder destroyed more lives. In Pittsburgh, two police officers arrived at a house to quell a domestic conflict. The two officers were ambushed and killed by the gunman who held a concealed weapons permit. Minutes later, the gunman shot and killed a third officer who arrived at the scene.

The special interest gun lobby is hanging its hopes on the prospect that this Chamber will abandon common sense and pass the Thune amendment. But this gun lobby's dream is a nightmare for our country. It violates States rights and it will make it easier for gun traffickers to move firearms. If the Thune amendment becomes law, traffickers could now load up a car and take guns across State lines legally, as long as the driver has a concealed weapons permit in any State.

History will record that this Senate was asked to decide whether to put families further in danger or keep them safe, whether to savage State laws or honor them, and whether to usurp States rights or preserve them. I hope my colleagues will do the right thing. I urge them to vote no, no, no, on the Thune amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from South Dakota.

Mr. THUNE. I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I think a little bit of history is important for us now. Let me give a quote of what Thomas Jefferson had to say. It is important for us to hear him. We recognize his wisdom in lots of what he did for us as one of the Founders of this country. Here is what he said about guns: Gun control laws disarm only those who are neither inclined nor determined to commit crimes. Such laws only make worse for the assaulted and better for the assailants. They serve, rather, to encourage rather than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man.

Granted, that was in a different day and time, but his words ring true. To those who are opposing this amendment who truly believe we ought to have a total ban on firearms, I recognize that is a legitimate position for some of those people. But what I find both disingenuous and also curious and funny at the same time is the number of my colleagues who now come to the floor to preserve States rights when 95 percent of their votes, in the last Congress and this one and the ones that preceded, voted to take away those very same States rights in every other area of freedom.

We just had a hearing on a Supreme Court Justice. She got it wrong on the second amendment. The second amendment is written into the Constitution and the Bill of Rights. Why was the 14th amendment even brought up to Congress? The historical debate shows that during reconstruction, freed Black slaves were losing their right to own a gun simply because they were Black, simply because they were freed slaves. Many Southern States passed laws taking that right away. The due process of the 14th amendment came about so that we could preserve the right of individuals to own arms and defend themselves.

What I find ludicrous in this debate is any discussion of an assault weapons ban or assault weapons. You can't conceal one. That is No. 1. No. 2, we had the Senator from New Jersey mention the Uzi. It is illegal to own an Uzi in this country. So you are already a criminal, you are already a felon, you are already one of those individuals Jefferson was talking about when you claim to say that we are going to step all over State laws.

We had a vote in terms of honoring States rights in terms of the national park bill on guns. Twenty-nine of my colleagues, thirteen of whom now are defending States rights, stepped all over States rights with their vote against the Coburn amendment when it came to allowing people to have supreme their State law in terms of national parks.

Nobody comes to the Senate floor a purist. The vast majority of people who are debating against this amendment on the fundamental principle of stepping on States rights have a voting record that 98 percent of the time they don't care about States rights; they care about the Federal Government.

I have an offer. Any Member who wishes to vote against this amendment, if you will all endorse the Enumerated Powers Act and see that we pass it through Congress, then you can demonstrate your fidelity to the 10th amendment. Except nary a one of those who are opposing this amendment has endorsed the Enumerated Powers Act in this Congress or the last. The arguments ring hollow when we talk about the 10th amendment because the true action would be to recognize the limited powers of the Federal Government to enforce the 10th amendment, and we wouldn't be having this debate.

States rights are convenient only when it comes to something we don't like. They are rarely utilized to truly defend States rights. You have to follow the laws of the State you are in; that is respecting States rights. For every incident and tragedy of somebody who had a concealed carry permit, we can give you 10,000 tragedies of those where gun control allowed the criminals to have guns but the innocents not.

I hope the American people will look at this debate and say: There is a fundamental right in this country, which the Supreme Court will get right in this next session, that is guaranteed to us as part of our liberty. It was inculcated into everything our Founders did. Knowing it to be true, it was written into our Constitution. Many of the rights we have today that we cling to so dearly were never even considered by our Founders but have come about as a result of what the judicial branch has said.

If you are going to use States rights as a position to defend your vote against this bill, I suggest that your constituencies look at your other votes on States rights and see if there isn't some big dissonance with that position. You will find it in every case.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent to be yielded 7 minutes rather than 5. I have cleared that with Senator DURBIN.

Mr. THUNE. How much time remains on the other side?

The PRESIDING OFFICER. There is 8 minutes 35 seconds.

Mrs. BOXER. I ask unanimous consent for 6 minutes.

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

Mrs. BOXER. Mr. President, I agree with the Senator from Oklahoma on one thing. I hope the American people are watching this debate. I truly do. We are talking about a radical proposal that is opposed by Democrats and Republicans in my home State. I have never seen the phones ringing off the hook to this degree.

I ask unanimous consent to have printed in the RECORD a statement by the California Police Chiefs Association.

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

CALIFORNIA
POLICE CHIEFS ASSOCIATION,
Sacramento, CA July 21, 2009.

Re Protect America's police officers, our citizens, and states rights by voting no on the Thune amendment (S.845/H.R.197/H.R. 1620).

Senator BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER, the California Police Chiefs Association is strongly opposed to the Thune Amendment (S.845). This legislation would require California to honor concealed carry permits granted by other states, even when those permit holders could not meet the standards required by California law. This would strip California of the power to create its own public safety laws, and hand that power to the states with the weakest protections. The Thune Amendment would also empower gun traffickers and threaten the safety of our police officers.

California, like most states across America, has intensely deliberated how best to balance community safety needs with the rights of our citizens to bear arms. We have, like almost all states, set various standards in addition to those in place under federal law. The linchpin of California concealed carry permitting is local law enforcement discretion. In addition to certain explicit statutory provisions, such as the exclusion of violent misdemeanants and certain juvenile offenders, California police chiefs and sheriffs have the discretion to deny a permit if they believe an applicant will present a danger to public safety. California also requires each applicant to complete a firearms safety course, demonstrate moral character, and justify the reason for applying for a permit. California's standards keep guns out of the hands of dangerous criminals. The Thune Amendment, however, would permit citizens of states with less strict laws to freely carry concealed weapons in our state.

This legislation will also aid and abet gun traffickers. Criminal traffickers already rely on states with weak laws as a source for the guns they sell illegally, according to a report issued by Mayors Against Illegal Guns in December 2008. In fact, the report showed that 30% of crime guns crossed state lines before they were recovered. This bill would frustrate law enforcement by allowing criminal traffickers to travel to their rendezvous with loaded handguns in the glove compartment. Even more troubling, a trafficker holding an out-of-state permit would be able to walk the streets of any city with a backpack full of loaded guns, enjoying impunity from police unless he was caught in the act of selling a firearm to another criminal.

Finally, this law would not only frustrate our police officers, it would endanger them. Policing our streets is perilous enough without increasing the number of guns that officers encounter. Confusion among police officers as to the legality of firearm possession could result in catastrophe. Congress should be working to make the job of a police officer more safe—not less.

As President of the California Police Chiefs Association, I urge you to protect California's ability to protect its communities from gun violence by voting against the Thune Amendment (S. 845/H.R. 197/H.R. 1620).

Sincerely,

BERNARD K. MELEKIAN,
President.

Mrs. BOXER. The police chiefs, letter is so tough and so strong. It reads in part:

The California Police Chiefs Association is strongly opposed to the Thune amendment. The legislation would require California to honor concealed carry permits granted by other States, even when those permit holders could not meet the standards required by California law. The Thune amendment would empower gun traffickers and threaten the safety of our police officers.

If there is one thing we should do for our police officers, it is not make their lives any tougher than they are. We recently lost four police officers in Oakland. The whole community suffered along with those families. My police chiefs talk about this:

A trafficker holding an out-of-State permit would be able to walk the streets of any city in America with a backpack full of loaded guns, enjoying impunity from police unless he was caught in the act of selling a firearm.

This is one of the strongest letters I have ever seen from my police chiefs. This debate is not about the right to own a gun. That has been settled by the Supreme Court in the Heller case. It is about allowing States to determine their own laws. And I totally get why some more rural States with fewer people would have different laws on conceal and carry than a State of 38 million people, my home State of California. Leave us alone. Leave us alone. You want to have conceal and carry with very few requirements, fine. We have conceal and carry with many requirements, and it is working.

Some States do not have any limit on the number of weapons you could carry with one conceal and carry permit. So someone could come into my State, go into one of my schoolyards, and open up a duffle bag full of perfectly legal weapons.

We have approximately 3,300 gun deaths each year in my State. Let me repeat that: 3,300 gun deaths each year in California. Each one of them has a story of tragedy behind it. A lot of them are kids. So do not come down here and tell my State what we should be doing. I support your State. You should support my State. And that is exactly what Governor Schwarzenegger says. He says we have a right to write our own gun laws.

Mr. President, 34 California mayors and 400 mayors nationwide oppose the Thune amendment, as does the International Association of Chiefs of Police.

We have a lot of work to do. We have to work on health care. We have to work on energy independence. We have to work on getting down the deficit. We have to work on bringing down the debt. We have to work on educating our kids. But, oh, no, we are spending hours on an amendment that is offered that tells our States their laws are not to be respected when it comes to conceal and carry.

Do you know there are some States that allow a spousal abuser to carry a concealed carry weapon? Do you want that spousal abuser, maybe in a state of rage, to walk into another State with a duffle bag full of weapons? And my senior Senator—she read this, and she is a pretty good expert on this issue—says you could have an assault weapon in there. Is that what we want?

It is ironic, as we deal with health care issues—do you know what it costs to try to sew up somebody and heal somebody who has been a victim of a gunshot wound? We are training our doctors who go over to Iraq and Afghanistan in our cities.

So all my colleagues on the other side who come here and talk about Big Brother—Big Brother—going into their States and telling their States what to do, this is a case of Big Brother, clear and simple.

If I need to protect my people in California, I want to leave it to my people in California. I do not want to come in and tell them they have to live with other State laws that are weaker. It is just wrong. It flies in the face of States rights. It flies in the face of common sense. And again, the supreme irony is, it is coming from folks who say they love our States, they respect our States, the Federal Government has too much power. But all of a sudden—

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

Mrs. BOXER. Mr. President, I hope we will vote against this amendment because this is not what we need in America—more gun deaths and more police being put in the line of fire.

I yield the floor.

Mr. LEAHY. Mr. President, when the Supreme Court handed down its decision in District of Columbia v. Heller I applauded the Court for affirming what so many Americans already believe: The second amendment protects an individual right to own a firearm. The Heller decision reaffirmed and strengthened our Bill of Rights.

Vermont has some of the least restrictive gun laws in the country. One does not need a permit to carry a concealed firearm, and citizens of Vermont are by and large trusted to conduct themselves responsibly and safely. In my experience, Vermonters do just that. Like many Vermonters, I grew up with firearms and have enormous respect and appreciation for the freedoms the second amendment protects. Like other protections in our Bill of Rights, the second amendment right to keep and bear arms is one that I cherish.

As a prosecutor, I protected the rights of Vermonters to possess firearms. As a Senator, I have carefully considered Federal efforts to regulate firearms, and always with an eye toward the burdens it may impose on the second amendment rights of law-abiding American citizens.

Justice Scalia's decision for the Supreme Court in Heller acknowledged that some reasonable regulation can and does coexist with the second amendment, just as it does for other rights in our Bill of Rights. The States have traditionally played the strongest role in regulating firearms based on State and local concerns. Most firearms regulation is decided within States as an issue of State police power. This is how it should be.

I feel strongly that the principles of federalism demand that the Federal Government minimize its intrusion into the policy judgments made by State and local officials, citizens and State legislators, especially in matters of public safety. I believe this is true whether the Federal Government seeks to restrict the activities of Americans or it seeks to second-guess what State officials have decided is proper regulation. Whenever the Federal Government imposes its will some citizens may be happy, but others will be disappointed. This is particularly true when such Federal action involves matters of safety and police power at the State level. The Federal Government plays a role in regulating the importation of firearms and has in providing a framework for interstate commerce.

Senator THUNE's amendment imposes the policy judgments of the Federal Government on the States. Just as I would vigorously oppose any Federal effort to restrict the ability of a State to allow its citizens to carry firearms in a concealed manner, I oppose this effort to second-guess the judgments of State and local officials across the country in relation to permitting people to carry a concealed firearm. Just as I would resist Federal legislation that prohibited States from entering reciprocity agreements with each other to honor one another's concealed carry permits, I do not believe the Federal Government ought to be forcing States to treat citizens from other States differently than it treats its own on this public safety matter. The Thune amendment represents the Federal Government intruding into the gun laws of the States. It could even result in some States repealing their concealed carry laws to avoid the impact of the Federal law.

What works in Vermont does not necessarily work in New York City. And what works in New York City would not get a warm welcome in Vermont. That is the beauty of our Federal system. When it comes to public safety and police power, the Federal Government ought to respect the judgments of the States, their citizens, elected officials, and law enforcement agencies.

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

• Mr. KENNEDY. Mr. President, 2 years ago I opposed a bill considered by the Senate Judiciary Committee to strip State and local police departments of their ability to enforce rules and policies on when and how their own officers can carry weapons. Today, I continue to oppose attempts to supersede or limit State gun control laws, and for this reason I oppose Senator THUNE's amendment that would infringe on the ability of State and local governments to regulate concealed guns in their jurisdictions. I have said it before, and I say it again—each State should be able to make its own judgment about whether citizens can carry concealed weapons within their jurisdictions. There is no reason for Congress to override gun safety measures in any State.

Yet the Thune amendment would override the laws of 48 States by requiring them to recognize concealed carry permits from other States, even if the permit holder would not be allowed to possess or carry a gun under the laws of those States. Currently, only two States—Illinois and Wisconsin—have a total prohibition against concealed carry weapons. This amendment would require the remaining 48 States to recognize a permit granted by another State that has issued a concealed weapon permit. Such a system leads to ludicrous results. For example, under the Thune amendment, a person who can't obtain a concealed carry permit in his home State could apparently circumvent his State law by finding another State in which that person would be eligible for a nonresident permit and then, using the reciprocity granted by the amendment, carry the concealed weapon back home.

State and local governments do not have a one-size-fits-all approach on gun control. Yet the Thune amendment treats them as if they were all the same. Under this amendment, a State would be prevented from limiting who can carry a concealed gun in its jurisdiction. In doing so, the amendment threatens the safety of our citizens, our communities, and our States.

States need the right to control who can carry a concealed weapon in their jurisdiction. What State officials, law enforcement, and legislators decide are the best policies for rural States may not be the best policies for urban States—and vice versa. This bill creates a race to the bottom, in which gun owners can get a permit in a State with the least restrictive licensing regulations and use that gun in every other State—except Illinois and Wisconsin, where there is a total prohibition. The amendment even entitles residents in Alaska and Vermont, the two States that allow residents to carry concealed guns without permits, to carry their guns in other States.

In 35 States, such as Massachusetts, a permit holder must have attended a safety course. Other States don't require a safety course, and residents in Alaska or Vermont are not required to have a permit at all. Yet, with the adoption of the Thune amendment, gun owners would be able to carry a concealed weapon without a safety course in all these States. This is absurd. In addition, other State licensing laws, which prohibit permits for individuals with criminal backgrounds or substance abuse problems, would be waived under the Thune amendment if the individual is issued a permit in a jurisdiction with more permissive regulations.

According to the most recent statistics, in 2006, an average of nine young people aged 19 and under were killed by a gun each day in the United States. In 2007, an average of 48 children a day were nonfatally wounded. The scourge of gun violence frequently attacks the most helpless members of our society—our children. Does the Thune amendment—authorizing more widespread use of concealed guns—improve these statistics? Does creating a system that reduces the regulations for permits for many concealed gun carriers improve these statistics? I think not.

In fact, it was found that concealed handgun license holders in Texas were arrested for weapon-related offenses at a rate 81 percent higher than that of the general population of Texas, aged 21 and older. Expanding the ability of a concealed gun holder to carry his weapon in a far larger number of jurisdictions will not lower gun deaths or crime.

Our brave police forces face risks every day in the line of duty. Policing the streets, and even routine traffic stops, are perilous enough without increasing the number of guns that officers encounter. Under the Thune

amendment there is no easy way for a police officer to determine the legality of a gun being concealed by an individual with a permit from outside the State. This confusion, and the increase in the number of guns on the street, could result in violent incidents, some of which could lead to more deaths from gun violence. The Senate should be working to make the job of police officers safer. The Thune amendment does the opposite.

The amendment takes away the right of a State to determine who can carry a concealed gun within that State. As a result, the amendment will increase the number of concealed guns that will be allowed on any given street. More than 400 mayors, numerous State legislators, the International Association of Chiefs of Police, and the Major Cities Chiefs Association oppose this amendment because of the danger it brings to our streets, our citizens, and our law enforcement. I strongly urge my colleagues to vote against Senator THUNE's amendment. It is unwise policy that could lead to tragic results.●

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, how much time is left on our side?

The PRESIDING OFFICER. Nine minutes.

Mr. THUNE. Mr. President, I yield myself 5 minutes.

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

Mr. THUNE. Mr. President, the Senator from California has made some comments, and actually both Senators from California talked about the issue of assault weapons. Of course, assault weapons—as my colleague from Oklahoma pointed out, it is very difficult to conceal an assault weapon. It is not something you are going to be running around—it is not a concealed weapon. Obviously, when you get into the State of California, those weapons are illegal.

I think it is fair to point out again that any State can impose restrictions on the people who come into their State with a concealed carry permit from another State. So State laws still trump when it comes to the place where guns can be carried.

To this issue of multiple guns being brought into a State, States can also say the permit only applies to one gun. Obviously, that is an issue on which a State can rule. Secondly, the issue of multiple guns I would think would fall under the rubric of trafficking, which is a Federal offense. It is illegal. For people who have committed crimes, that is illegal under Federal laws. They cannot get guns in the first place—or at least they are not supposed to get guns. It is a Federal crime if they do. People who have a history of mental illness—all these issues are addressed in Federal law, which provides a floor against all these types of things that are being suggested.

Much of what has been suggested here really is scare tactics, it is fear mongering. There is no basis on which to make many of the arguments. It is totally speculative that somehow this amendment is going to lead to all kinds of people, thugs and gangsters, getting guns and then transporting them someplace else in the country.

I will tell you, I do not think there are too many criminals—by the way, criminals commit the crimes. The Senator from New Jersey talked about the thousands who are killed by guns every year. Most of them are killed by criminals. There may have been an exception or two where somebody had a concealed carry permit, but relative to the general population, it is minuscule.

If you think about the number of crimes that are committed every year by criminals, what we ought to be doing is focusing on criminals, the people who commit crimes. Criminals are not going to go down to the courthouse in Sioux Falls, SD, and say: I want to get a concealed carry permit, or anywhere in this country, for that matter, because almost every State, with three exceptions, by law does a background check. So in order to own a gun or possess a gun, you have to go through a background check. So to get a concealed carry permit, you also have to go through a background check. I do not think most criminals are going to be going down and saying: I want to get a background check so I can get a gun so I can haul it and commit a crime in some other State. That is ludicrous. Think about the logic of that. For anybody who has a criminal record, obviously, the background check is going to reveal that. They are not going to be able to either acquire a gun or get a concealed carry permit, which means they are going to do what they usually do; that is, get those firearms illegally and commit crimes and felonies because that is what criminals do.

I want to mention some of those who have endorsed this amendment. The NRA has endorsed this amendment. Gun Owners of America—I have a letter from them endorsing this amendment. Citizens Committee for the Right to Keep and Bear Arms has endorsed this amendment. The Owner-Operator Independent Drivers Association, which, as I pointed out, represents a lot of the truckdrivers across the country, endorses this. This is a real issue for them because they are traveling across State lines in interstate travel on a regular basis. This is something they have advocated for a long time. The Passenger-Cargo Security Group, which, of course, represents a lot of those who fly cargo in this country, has endorsed it. GOProud has endorsed this amendment. And the Pink Pistols group has endorsed this amendment. So there are a number of groups, organizations out there that have endorsed this amendment that believe, as I do, it represents a commonsense approach that balances the constitutional right people in this country have to keep and bear arms—the second amendment right. It is in the Bill of Rights. All the other amendments in the Bill of Rights apply across State lines, and it seems to me, at least, this one should too, subject to restrictions that are imposed by the individual States. This does not preempt any of those.

States have different restrictions that apply and restrict the place and the manner in which firearms may be transported into their States. So what we are simply trying to do is clarify this patchwork of different regulations and laws and requirements that different States have all over the country, so people, law-abiding citizens—not the criminals who are being referred to who commit the crimes in this country—so law-abiding individuals who want to defend themselves against those very criminals have the opportunity to do so by being able to possess a firearm if they have a concealed carry permit.

As I said, every State is a little different as to how you go about getting one of those permits, but every State has its own requirements, and all of the States, with a couple exceptions, have background checks as a part of that.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. THUNE. Mr. President, I reserve the remainder of my time.

Mr. DURBIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes 15 seconds.

Mr. DURBIN. Mr. President, this morning around Washington, hundreds of lobbyists strapped on their suits and their ties and went to work waiting for the Thune amendment and his theory and their theory on keeping America safer by putting more guns on the street. Across America today, thousands of law enforcement officials strapped on their guns and their badges and went out on those mean streets to risk their lives to keep us safe.

Did you listen to the groups that have endorsed the Thune amendment? Do you know what is missing? Not a single law enforcement group supports JOHN THUNE's amendment. The men and women who are risking their lives for our safety every day do not support his amendment. They oppose it. Do you know why they oppose it? Because they realize there are different standards in different States for concealed carry and in some States almost no standards at all. They realize that in 17 States you do not need to even prove you know how to fire a gun safely. And under JOHN THUNE's amendment, those people can go into States that require a test or even a test on a firing range—the 31 States that require it—and they can carry a gun without any evidence that they know how to use it.

There are also some 35 States that prohibit people convicted of certain misdemeanor crimes from carrying concealed firearms. That means that 13 other States can send their people in

with convictions for these misdemeanors and they can carry a firearm legally under JOHN THUNE's amendment.

Let me say, finally, they realize, too, that if you happen to be a drunk driver in a State—17 States—you can still get a concealed carry permit. It does not matter how many times you have been convicted for DUIs, whether you are a habitual drunkard, an alcoholic, you can still get a concealed carry permit in 17 States. Senator THUNE wants those people to be able to drive into your State, where you say, frankly, you cannot have a concealed carry permit if you cannot handle alcohol—he wants them to be able to come into those States and to have the right to carry a firearm.

Will that make us safer? The men and women in uniform, who went out this morning and are out there right now protecting us, say no. And that is what we ought to say to the Thune amendment: No.

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

The Senator from South Dakota.

Mr. THUNE. Mr. President, let me point out what I pointed out earlier. This amendment does not apply to the District of Columbia. But I also want to come back to a basic point; that is, how did we get here today? Why are we here? Well, we are here, supposedly, to be talking about the Defense authorization bill. But last week the Democratic leadership decided to put a hate crimes amendment on the floor as the first amendment to the Defense authorization bill—unrelated, nongermane to the underlying Defense authorization bill.

The hate crimes bill, it could be argued, preempts a lot of State laws because a lot of States have their own laws with regard to hate crimes. But we decided here—the Democratic leadership did—that it was more important to talk about hate crimes legislation than it was to talk about defense-related amendments.

Well, my view was, they are going to offer a hate crimes amendment on the floor of the Senate. What better way to prevent hate crimes than to allow the potential victims of hate crimes to defend themselves against those very hate crimes? So I was going to offer this amendment, this concealed carry amendment, as a second-degree amendment to the hate crimes amendment that was put on the floor last week by the Democrats. The leader filled the tree, preventing us from doing that. So we worked it out to have this debate and to talk about this amendment today. But it ties in very closely to the hate crimes amendment, the legislation we have had on the floor of the Senate for the last week when we should have been talking about Defense authorization issues.

But that being said, I will come back to my basic fundamental point. This is a commonsense amendment that strikes a balance between the constitutional right the people in this country enjoy under the second amendment to keep and bear arms—and which has been supported by the Supreme Court, I might add—and the rights of States under federalism to restrict that according to their own wishes and laws. And every State does that differently. This amendment does not preempt those.

The States of Wisconsin and Illinois prevent concealed carry permit holders, and so there is not anybody in this country who is going to be able to travel through Illinois or Wisconsin and carry a gun because they just do not allow it. So it respects the rights of the individual States. But it does allow law-abiding citizens in this country to exercise their constitutional right under the second amendment, and that right should not end at State lines. State borders should not be a barrier to an individual's right to defend themselves.

I believe the studies are very clear. As I have said earlier—they are all speculating about all the crimes that are going to be committed—people, concealed carry permit holders, if you look at the data, are 15 times less likely than the rest of the public to commit murder. Criminals commit crimes, not law-abiding citizens, not people who go down to their courthouse to get a concealed carry permit so they can defend themselves against the very criminals who routinely break the laws and possess firearms illegally so they can commit crimes.

This is a reasonable, commonsense balance which I believe strikes the right balance between the constitutional second amendment right citizens in this country enjoy and the States' ability to restrict that right. And any concealed carry permit holder who has a concealed carry permit in their State of residence who travels to another State has to abide by and is subject to the laws that are enacted by that individual State.

So, Mr. President, I hope my colleagues will vote for what is a commonsense amendment that allows people across this country who are law-abiding citizens to defend themselves from the very criminals who break those laws and try to commit these crimes.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, under current law each State adopts and enforces their own eligibility standards for who is qualified to obtain a concealed carry permit. Carrying a concealed weapon is a crime if those eligibility standards are violated and a citizen of that State carries a concealed weapon. For example, 35 States prohibit those with criminal misdemeanor convictions from obtaining a concealed carry permit.

The Thune amendment would federally authorize an individual who has been issued a concealed carry permit in one State the right to carry a concealed weapon in 47 other States, even though those other States prohibit an individual who resides in those other 47 States from carrying a concealed weapon. A Federal standard is thereby imposed on the States.

The 35 States that prohibit criminal misdemeanants from carrying concealed weapons are told under the Thune amendment: You can enforce your own laws regarding your own residents but cannot enforce your own laws against residents of the 13 States who issue concealed carry permits to convicted criminal misdemeanants when those nonresidents visit your State. The laws of those 35 States cannot be applied to all persons in their States—those from 13 other States who get permits under weaker laws are immunized.

A double standard would be adopted and would be imposed on the States.

A terrible precedent of a national standard would also be adopted and imposed on the States, superseding a State's ability should they choose to regulate concealed possesion of a firearm in their States by visiting criminal misdemeanants who do not meet their standards for concealed firearms possession.

So while the Thune amendment says it doesn't preempt any provision of State law with respect to the issuance of licenses or permits to carry concealed firearms, that is true only as to residents—it does preempt the right of the States to apply its laws as to who can carry a concealed weapon to all persons in the State, residents and nonresidents alike.

Senator THUNE's statement that everyone must comply with restrictions of States they are in is not accurate then as to the key restriction relating to who can carry concealed weapons.

The amendment will also create serious problems for law enforcement. Law enforcement officials use concealed carry permits as an important tool in combating illegal trafficking. In most States, carrying a firearm without a permit is a crime. The Thune amendment would hamper law enforcement's ability to identify and arrest illegal traffickers before they are able to sell their weapons on the black market, for instance: This is one reason why the amendment is opposed by the International Association of Chiefs of Police, the Major Cities Chiefs Associations, Mayors Against Illegal Guns and State Legislatures Against Illegal Guns.

The National Defense Authorization Act is enacted every year to help make this a safer nation. This amendment will not do that. I urge my colleagues to vote against it.

Mr. THUNE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 1618.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—58

Alexander	DeMint	McConnell
Barrasso	Dorgan	Murkowski
Baucus	Ensign	Nelson (NE)
Bayh	Enzi	Pryor
Begich	Feingold	Reid
Bennet	Graham	Risch
Bennett	Grassley	Roberts
Bond	Gregg	Sessions
Brownback	Hagan	Shelby
Bunning	Hatch	Snowe
Burr	Hutchison	Tester
Casey	Inhofe	Thune
Chambliss	Isakson	Udall (CO)
Coburn	Johanns	Udall (NM)
Cochran	Johnson	Vitter
Collins	Kyl	Warner
Conrad	Landrieu	Webb
Corker	Lincoln	Wicker
Cornyn	Martinez	
Crapo	McCain	

NAYS—39

Akaka	Harkin	Merkley
Bingaman	Inouye	Murray
Boxer	Kaufman	Nelson (FL)
Brown	Kerry	Reed
Burris	Klobuchar	Rockefeller
Cantwell	Kohl	Sanders
Cardin	Lautenberg	Schumer
Carper	Leahy	Shaheen
Dodd	Levin	Specter
Durbin	Lieberman	Stabenow
Feinstein	Lugar	Voinovich
Franken	McCaskill	Whitehouse
Gillibrand	Menendez	Wyden

NOT VOTING—3

Byrd	Kennedy	Mikulski

The PRESIDING OFFICER. Under the previous order requiring 60 votes for adoption of the amendment, the amendment is withdrawn.

Mr. DURBIN. Mr. President, I move to reconsider the vote.

Mr. MENENDEZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator KYL be recognized as in morning business for 10 minutes, and that Senator TESTER then be recognized for 10 minutes.

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

The Senator from Arizona is recognized.

SOTOMAYOR NOMINATION

Mr. KYL. Mr. President, every American should be proud that a Hispanic woman—one with a very impressive background—has been nominated for the Supreme Court.

In evaluating a nominee, it is important that the Senate examine all aspects of the individual's career and his or her merit as a judge and not make judgments on the basis of gender or ethnicity.

It starts with the judge's decisions and opinions. Also important to understanding what an individual really thinks about things are his or her speeches, writings, and associations.

Judge Sotomayor's most widely known speech is, of course, her ''wise Latina woman'' speech, which was given in various fora over the years. It is clear that the often-quoted phrase is not just a comment out of context but is the essence of those speeches.

Judge Sotomayor's central theme was to examine whether gender and ethnicity bias a judge's decision. Judge Sotomayor concludes they do, that it is unavoidable. She develops this theme throughout the speech, including examining opposing arguments and examining evidence that suggests that gender makes a difference. She then quotes former Justice Sandra Day O'Connor's statement that men and women judges will reach the same decision and, in effect, disagrees, saying she is not so sure. That is when she says she thinks a ''wise Latina'' would reach a better decision.

Her attempt to recharacterize these speeches at the committee hearing strained credulity. I will address this issue at greater length during the confirmation debate, but suffice to it say that I remain unconvinced that she believes judges should set aside these biases, including those based on race and gender, and render the law impartially and neutrally.

Judge Sotomayor's address to the Puerto Rican ACLU, entitled ''How Federal Judges Look to International and Foreign Law under Article VI of the U.S. Constitution,'' also raises red flags.

In this speech, she inferred that foreign law should be used but later testified it should not. I will also discuss at length my concerns related to this matter during the confirmation debate and the problems I have squaring her testimony with the contents of this speech. The central point, of course, is that it is completely irrelevant to consider foreign law in U.S. courts. I don't believe Judge Sotomayor is sufficiently committed to this principle.

Judge Sotomayor's supporters argue that we should not focus on her speeches but on her ''mainstream'' judicial record. They claim she agreed with her colleagues, including Republican appointees, the vast majority of the time. That may be true, but as President Obama has reminded us, most judges will agree in 95 percent of the cases.

The hard cases are where differences in judicial philosophy become apparent.

I have looked at Judge Sotomayor's record in these hard cases and have found cause for concern. The U.S. Supreme Court has reviewed directly 10 of her decisions—8 of those decisions have been reversed or vacated, another sharply criticized, and 1 upheld in a 5 to 4 decision.

The most recent reversal was Ricci v. DeStefano, a case in which Judge Sotomayor summarily dismissed before trial the discrimination claims of 20 New Haven firefighters, and the Supreme Court reversed 5 to 4, with all nine Justices rejecting key reasoning of Judge Sotomayor's court.

In my view, the most astounding thing about the case was not the incorrect outcome reached by Judge Sotomayor's court—it was that she rejected the firefighters' claims in a mere one-paragraph opinion and that she continued to maintain in the hearings that she was bound by precedent that the Supreme Court said did not exist.

As the Supreme Court noted, Ricci presented a novel issue regarding ''two provisions of Title VII to be interpreted and reconciled, with few, if any, precedents in the court of appeals discussing the issue.'' One would think that this would be precisely the kind of case that deserved a thorough and thoughtful analysis by an appellate court.

But Judge Sotomayor's court instead disposed of the case in an unsigned and unpublished opinion that contained zero—and I do mean zero—analysis.

Some have speculated that Judge Sotomayor's panel intentionally disposed of the case in a short, unsigned, and unpublished opinion in an effort to hide it from further scrutiny. Was the case intentionally kept off of her colleagues' radar? Did she have personal views on racial quotas that prevented her from seeing the merit in the firefighters' claims?

Judge Sotomayor was asked about her Ricci decision at length during the confirmation hearing. Her defense, that she was just following ''established Supreme Court and Second Circuit precedent,'' as I said, is belied by the Supreme Court's opinion noting ''few, if any'' circuit court opinions addressing the issue.

When I pressed Judge Sotomayor to identify those controlling Supreme Court and Second Circuit precedents that allegedly dictated the outcome in Ricci, she dissembled and ran out the clock. Her ''answers'' answered nothing and, in my opinion, violated her obligation to be forthcoming with the Judiciary Committee.

I am also concerned about Judge Sotomayor's analysis—or lack thereof—in Maloney v. Cuomo, a second amendment case that could find its way to the Supreme Court next year. Maloney was decided after the Supreme Court's landmark ruling in District of Columbia v. Heller, which held that the right to bear arms was an individual right that could not be taken away by the Federal Government.

In Maloney, Judge Sotomayor had the opportunity to consider whether that individual right could also be enforced against the States, a question that was not before the Heller Court. In yet another unsigned opinion, Judge Sotomayor and two other judges held that it was not a right enforceable against States.

What are the legal implications of this holding? State regulations limiting or prohibiting the ownership and

use of firearms would be subject only to ''rational basis'' review. As Sandy Froman, a respected lawyer and former National Rifle Association president, said in her witness testimony, this is a ''very, very low threshold'' that can easily be met by a State or city that wishes to prohibit all gun ownership, even in the home. Thus, if Judge Sotomayor's decision were allowed to stand as precedent, then States will, ironically, be able to do what the Federal District of Columbia cannot—place a de facto prohibition on the ownership of guns and other arms.

As we have seen, Judge Sotomayor's testimony about her previous speeches and some of her decisions is difficult, if not impossible, to reconcile with her record. Similarly, her testimony about the extent of her role with PRLDEF is in tension with the evidence that we have. The New York Times has detailed her active involvement as recounted by former PRLDEF colleagues, who have described Judge Sotomayor as a ''top policy maker'' who ''played an active role as the defense fund staked out aggressive stances.''

What were the litigation positions advanced by PRLDEF during Judge Sotomayor's tenure there? Well, it argued in court briefs that restrictions on abortion are analogous to slavery. And it repeatedly represented plaintiffs challenging the validity of employment and promotional tests—tests similar to the one at issue in Ricci.

Unfortunately, I have not been persuaded that Judge Sotomayor is absolutely committed to setting aside her biases and impartially deciding cases based upon the rule of law. And I cannot ignore her unwillingness to answer Senators' questions straightforwardly. For these reasons, I oppose her nomination.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Montana.

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

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

FOREST JOBS AND RECREATION ACT OF 2009

Mr. TESTER. Madam President, I rise today to call on the Senate to take action on a bill I introduced last week—the Forest Jobs and Recreation Act.

The Forest Jobs bill is a product of years of effort from Montanans who worked together to find common ground on how to best manage and protect our forests. These folks—mill owners, conservationists, hunters and anglers, motorized users—have fought each other for decades. As little as 10 years ago, their differences were so great, they were so much apart that they could not even be in the same room together.

In the meantime, forest management came to a virtual halt, a beetle epidemic swept through our forests, and not a single acre of wilderness was designated in the State. Amid all the shouting, no one got what they wanted, and all Montanans, and especially our forests, suffered for it.

With help from my fellow Montanans, we are working to fix that. That is why I am enormously proud to carry forward their work in the Forest Jobs and Recreation Act.

Besides putting aside old battles, this bill will help protect our communities from a crisis on Montana's forest lands. And make no mistake about it, Montana's forest communities face a crisis. Our forest crisis demands action, and it demands action now.

For example, in the Beaverhead Deerlodge National Forest in southwestern Montana, a shocking 660,000 acres of lodgepole pine are dead—killed by the mountain pine beetle. To put that in perspective, that is just shy of 1,000 square miles. That is a big figure, even for Big Sky country. And it is a number that is only on the rise.

What follows dead trees? Fire. As I speak, 200 firefighters are battling a wildfire just a few miles southwest of Deerlodge, MT, in those beetle-killed trees.

While no amount of work in a forest could put a stop to the beetle kill, if enacted into law, this bill will help protect our communities and our water supplies from the threats of future forest fires.

On the Beaverhead Deerlodge Forest, the bill mandates that an average of 7,000 acres a year be harvested. This work will happen in the context of larger stewardship projects aimed at restoring fishing and hunting habitat.

A council of local stakeholders will work with the Forest Service to help shape each of the projects, providing a voice to local folks in how we manage our forests.

The bill also addresses two districts on two other forests in Montana—the Three Rivers on the Kootenai and the Seeley on the Lolo. Similar work will occur in these places: big stewardship projects that are driven by local collaborations so our forests, and the communities within them, will be healthier in the end.

Let me be clear. This bill will not just help restore our forests and their watersheds, it will help restore our communities. It will put people back to work in the woods, harvesting trees, rolling up roads, building bigger culverts for fish, and tackling stream restoration projects.

A lot of mills have closed in Montana. We are at risk of losing more. If we lose that infrastructure, we will suffer an even bigger loss. We will lose the folks who know how to work in the woods. Without their know-how, without the mills to process the byproduct of their work, we will not be able to tackle head on the years of work that lie ahead—work to restore the woods around our towns, to make them more resilient to the fires that may one day come.

Of course, in Montana, we don't just work in the woods, we play in them. That is why Montanans asked me to put aside recreation areas in this bill, and I did. Lands will be set aside for both motorized and nonmotorized use.

Lastly, I am proud to set aside some of Montana's best hunting and fishing habitats for future generations with this bill. This bill will keep some spectacular wild places with the cleanest water around you can imagine for our kids and grandkids to hunt and fish and hike and camp, places such as the Sapphires in this picture, the Snowcrests on Roderick Mountain, and lands next to our world famous Bob Marshall Wilderness.

It is a new day when motorized users, timber mill owners, back-country horsemen, hunters, fishermen, and conservationists all agree that it is time to set aside our differences for the sake of the forests and for the sake of our communities.

I have reached out to folks in western Montana to get feedback on these issues. I have held listening sessions throughout timber country, open to any and all Montanans who want to work together on a commonsense plan for our future.

Last weekend, I held a series of open meetings to announce the introduction of the bill and to hear more feedback. I have invited Montanans to visit my Web site—tester.senate.gov—to download their own copy of the legislation. Folks can also click on color-coded maps to see for themselves exactly what we are proposing. And they can sign up as citizen cosponsors of this important legislation. Already, hundreds of Montanans have signed on to make their voices heard and to help put their shoulder to the wheel to get this bill moving.

I can tell you, Montana is buzzing with excitement about this proposal. Folks see it as an opportunity to work together to support this ''Made in Montana'' solution to the conflicts that have stalemated us for far too long.

Working together, we will create jobs. Working together, we will create new opportunities for recreation. Working together, we will protect Montana's clean water. And working together, we will safeguard Montana's fishing and hunting habitat for our kids and grandkids.

Montanans are blessed to live among some of this Nation's finest public lands. We are willing to do our part to help wisely manage and protect these lands. Now it is time for Congress to step up to the plate and do its part.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

SOTOMAYOR NOMINATION

Mr. COCHRAN. Madam President, with respect to the nomination of Judge Sonia Sotomayor to be an Associate Justice on the U.S. Supreme Court, I find that I share many of the concerns expressed by the distinguished Senator from Arizona, Mr. KYL.

First, I want to thank Senators LEAHY and SESSIONS for their handling

of the hearings in the Judiciary Committee on the subject of the Supreme Court confirmation of Judge Sotomayor. Their meetings were both informative and respectful, and I think they appropriately reflected the traditions of the Senate. Both Judge Sotomayor and the judicial confirmation process were treated with the respect they deserve.

The Senate's constitutional role to advise and consent on Federal judicial nominations is one that all Senators take seriously. And I, like most Senators, have traditionally shown significant deference to the President's role in submitting to the Senate nominees for the Federal judiciary. It is a role that the Senate shares with the President. If a nominee was qualified by education, experience, and judicial temperament, then that nominee would likely be confirmed by the Senate, regardless of the political party of the President.

But in recent years, we have seen that standard dramatically altered. During the administration of President George W. Bush, for example, several well-qualified nominees from my State for positions in the Federal judiciary, including Charles Pickering, Michael Wallace, and Leslie Southwick, saw their nominations opposed because of political differences. For better or for worse, a new standard for evaluating judicial nominees has emerged.

As has been well documented during her confirmation process, Judge Sotomayor was confirmed to the U.S. Court of Appeals for the Second Circuit by the Senate on October 2, 1998. I voted in favor of her confirmation. However, a nomination to one of the Federal Circuit Courts of Appeals is not the same as a nomination to the Court of last resort, the highest Court in our land, the U.S. Supreme Court.

During her recent hearing, Judge Sotomayor was asked several questions regarding statements she had made in recent years. In writings and speeches, Judge Sotomayor repeatedly stated that a judge's personal experiences can and will impact judicial outcomes. She has also argued that judges should allow their personal sympathies and prejudices to influence their decision-making. She described the ideal of judicial impartiality as an aspiration she believes cannot be met in most cases. These statements raise serious concerns regarding the lack of commitment to the notion of equal justice under the law.

Judge Sotomayor's responses to questions about these comments have failed to alleviate my concerns about whether she would apply the law in an evenhanded manner. It is the responsibility of the Senate to make certain that those who are confirmed to the Supreme Court not only are fully qualified by reason of experience and training but also that they show a commitment to equal justice under the law. Some of Judge Sotomayor's statements during the last decade have given me reason to question her fidelity to equal justice.

Unlike the Federal circuit court, where she has served since 1998, a Justice on the Supreme Court is not necessarily bound by existing legal precedent. If confirmed, there would be no higher court to deter Judge Sotomayor from making decisions that would become the binding law of the land. For these reasons, I intend to oppose her nomination.

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

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

Mr. GRAHAM. Madam President, I ask unanimous consent to be recognized for up to 30 minutes, although I doubt I will take that long.

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

Mr. GRAHAM. Madam President, I take to the floor to inform the Senate and my colleagues about how I intend to vote on the pending nomination of Supreme Court nominee Judge Sotomayor. I understand the path of least resistance for me personally would be to vote no. That is probably true anytime you are in the minority party and you lose an election. But I feel compelled to vote yes, and I feel this is the right vote for me and, quite frankly, for the country in this case.

Why do I say that? Well, elections have consequences. I told Judge Sotomayor in the hearing that if I had won the election, even though I wasn't running, or Senator MCCAIN had, she would probably not have been chosen by a Republican. We would have chosen someone with a more conservative background—someone similar to a Judge Roberts or Miguel Estrada. She is definitely more liberal than a Republican would have chosen, but I do believe elections have consequences.

It is not as though we hid from the American people during the campaign that the Supreme Court selections were at stake. Both sides openly campaigned on the idea that the next President would be able to pick some judges for the Supreme Court. That was known to the American people and the American people spoke.

In that regard, having been one of the chief supporters of Senator MCCAIN and one of the chief opponents of then-Senator Obama, I feel he deserves some deference on my part when it comes to his first selection to the Supreme Court. I say that understanding, under our Constitution, I or no other Senator would be bound by the pick of a President. But when you look at the history of this country, generally speaking, great deference has been given to that selection by the Senate.

While I am not bound to vote for Judge Sotomayor—voting no would be the path of least political resistance for me—I choose to vote for Judge Sotomayor because I believe she is well qualified. We are talking about one of the most qualified nominees to be selected for the Supreme Court in decades. She has 17 years of judicial experience. Twelve of those years she was on the Second Circuit Court of Appeals. I have looked at her record closely. I believe she follows precedent; that she has not been an activist judge in the sense that would make her disqualified, in my view. She has demonstrated left-of-center reasoning but within the mainstream. She has an outstanding background as a lawyer. She was a prosecutor for 4 years in New York. Her record of academic achievement is extraordinary—coming up from very tough circumstances, being raised by a single mother, going to Princeton, being picked as the top student there, and doing an extraordinary job in law school. She has a strong work ethic. That all mattered to me. It is not just my view that her legal reasoning was within the mainstream. She received the highest rating by the ABA—the American Bar Association—as ''well qualified.''

The reason I mention that is not because I feel bound by their rating, but during the Alito and Roberts confirmation hearings for the Supreme Court under President Bush, I used that as a positive for both those nominees. I feel, as a Republican, I can't use it one time and ignore it the other. So the fact that she received the highest rating from the American Bar Association made a difference to me.

Her life story, as I indicated before, is something every American should be proud of. If her selection to the Supreme Court will inspire young women, particularly Latino women, to seek a career in the law, that is a good thing, and I hope it will.

On balance, I do believe the Court will not dramatically change in terms of ideology due to her selection. Justice Souter, whom I respect as an individual, has been far more liberal than I would prefer in a judge. I think Justice Sotomayor will not be any more liberal than he. On some issues, quite frankly, she may be more balanced in her approach, particularly when it comes to the war on terror, the use of international law, and potentially the second amendment. But time will tell. I am not voting for her believing I know how she will decide a case. I am voting for her because I find her to be well qualified, because elections matter, and because the people who have served along her side for many years find an extraordinary woman in Judge Sotomayor, and I confirm their findings.

What standard did I use? Every Senator in this body, at the end of the day, has to decide how to give their advice and consent. One of the things I chose not to do was to use Senator Obama's standard when it came to casting my vote for Judge Sotomayor. If those who

follow the Senate will recall, Senator Obama voted against both Judge Alito and Judge Roberts, and he used the rationale that they were well qualified; that they were extraordinarily intellectually gifted; but the last mile in the confirmation process, when it came to Judge Roberts, was the heart. Because 5 percent of controversial cases may change society, one has to look and see what is in a judge's heart.

I totally reject that. If the Senate tries to have a confirmation process where we explore another person's heart, I think we are going to chill out people wanting to become members of the judiciary. Who would want to come before the Senate and have us try to figure out what is in their heart? Can you imagine the questions we would be allowed to ask? I think it would have a tremendous chilling effect on the future recruitment of qualified candidates to be judges. Let me say this: Judge Sotomayor agreed with me and Senator KYL that trying to find out what is in a judge's heart is probably not a good idea.

Senator Obama also indicated that judicial philosophy and ideology were outcome determinative when it came to Judge Alito. If I used his standard, knowing that her philosophy is different than mine, her ideology is different than mine, she would have no hope of getting my vote. I daresay not one Republican, using the Obama standard, would provide her with a confirmation vote. So I decided to reject that because I believe it is not in the long-term interest of the Senate or the judiciary.

I went back to a standard I think has stood the test of time—the qualifications standard. Is this person qualified to sit on the Court? Are they a person of good character? Do they present an extraordinary circumstance—having something about their life that would make them extraordinary to the point they would be unqualified? There was a time in this country where a Justice, such as Justice Ginsburg, who is clearly left of center, received 90-something votes in this body. There was a time in this country, not long ago, where a conservative judge, such as Justice Scalia, received over 95 votes from this body. Every Democrat who voted for Justice Scalia could not have been fooled as to what they were getting. They were getting an extremely qualified, talented, intellectual man who was qualified for the job but had a different philosophy from most Democrats. Someone on our side of the aisle who voted for Justice Ginsburg had to know what they were getting. They were getting someone who was very talented, extremely well qualified, incredibly smart, and who was general counsel for the ACLU. You had to know what you were getting, but you understood that President Clinton, in that case, had the right to make that decision.

What happened to those days? I would say to my Democratic colleagues—and I am sure Republicans have made our fair share of mistakes when it comes to judges—that this effort, not too far in the past, of filibustering judges, declaring war on the Judiciary, has hurt this body. In my opinion, the politicization of our Judiciary has to stop for the good of this country, for the good of the Senate, and for the good of the rule of law in America.

What am I trying to do today? I am trying to start over. The political ''golden rule'' is: Do unto others as they did unto you. The actual Golden Rule is: Do unto others as you would have them do unto you. I hope we can get back to the more traditional sense of what the Senate has been all about. That brings me back to the recent past.

This body was on the verge of blowing up. Our Democratic colleagues were filibustering President Bush's nominees for the appellate court, and even the Supreme Court, in a fashion never known by the body. There was an effort by frustrated Republicans to change the rules so all you needed was a majority vote to get on the bench—the Supreme Court. This body, for a couple hundred years, had not gone down that road. A Gang of 14 was created—7 Republicans and 7 Democrats—and they tried to find a better way; they tried to get the Senate back to a more reasoned position. That Gang of 14—the 7 Democrats and 7 Republicans—said filibustering judges should only be done in an extraordinary circumstance. We left that up to the Members of the body, but we were focusing on someone who was clearly out of the mainstream when it came to judging.

If you look at Judge Sotomayor's record for 17 years, it is left of center but not the record of someone who is wearing a robe but under the robe is an activist. An extraordinary circumstance would be somebody clearly not qualified—a pick that is political in nature alone.

I am glad to say my colleagues on the Democratic side and the Republican side who were part of that group—and they are still here—did not see an extraordinary circumstance. I would like to compliment Senator SESSIONS, who did a very fine job in this hearing. He has acknowledged there is nothing extraordinary about this nominee for the Republican Party to try to block her through filibustering. I think that is a correct assessment.

But then it comes down to the individual vote. I have tried to indicate the best I can that I desire, as a Senator, to find a new way to start over and get back to a Senate that is more rational in its approach when it comes to confirmations.

Having said that, to my colleagues who vote no, I understand your concerns and there are things about this nominee that are troubling. The speeches she has given in the past are troubling because I think they embrace identity politics, something I don't embrace. The ''wise Latina'' comment that has become famous, that she believes more often than not that a wise Latina woman with her experience and background would reach a better conclusion than a White male—we had a long discussion about how that does not set well with most Americans and that is not what we want to be expressed by people trying to become Supreme Court nominees.

But having said that, do we want to exclude from consideration people with boldness, who are edgy? Do we want milk toast nominees who are afraid to speak their minds and to disagree with their fellow citizens? I think not.

Her speeches, while troubling, have to be looked at in terms of her record. When we look at this 17-year record we will find someone who has not carried out that speech. I will take her at her word. She rejected this idea of picking winners and losers and was very mainstream in her understanding of the role of a judge. She understood the difference between a policymaker and a judge. I will take her at her word. I cannot understand her heart any more than she can understand mine. The speeches are troubling, but I guarantee I have made some speeches that are probably troubling to people on the other side. I hope they would look at everything I have done, not just the speeches I may have given.

Her time as a lawyer—this is very important to me. During the Alito and Roberts hearings, they were pushed hard about some legal memos they wrote for Ronald Reagan espousing conservative thought and how that made them dangerous. How dare you write a memo about the Civil Rights Act that somebody on the other side may disagree with? Lawyers who advocate positions should not feel chilled in terms of picking their clients if they hope to be a judge. The worst thing we could do is take a lawyer's advocacy position, their clientele, and hold it against them for being a judge.

She was a board member of the Puerto Rican Legal Defense Fund. Some people say we should not talk about her time as a lawyer or even mention that organization. I do not believe that at all because when I am looking at this nominee, I am looking at every aspect of her life.

During her time as a board member, the board and the organization advocated positions I think are out of the mainstream, that I do not agree with, but certainly are legitimate positions to take—such as taxpayer-funded abortion. I could not disagree with her more. I don't think most Americans want their taxpayer dollars to be used to fund abortion. The Puerto Rican Legal Defense Fund argued to the court that if we do not allow taxpayer-funded abortion for poor women, it is a form of Dred Scott kind of oppression. I could not disagree more, but that is not the point. Disagreeing with me is OK.

What I hope will happen in the future is, if a conservative gets into the White

House, and we pick someone who was on the other side of that case, we will have the same understanding I do: being an aggressive advocate for causes I disagree with does not disqualify them from being a judge, if otherwise they have demonstrated the capability.

The advocacy role of a lawyer is unique. I have represented people with whom I disagreed. I have represented people accused of child molesting. I have been a criminal defense lawyer. There is nothing more noble in our system than making the government prove their case regardless of how one feels about the defendant.

The fact that she was an advocate, choosing causes I disagree with, does not, in my opinion, disqualify her because, when I looked at her record, I did not see a judge who was continuing to be a lawyer for the Puerto Rican Legal Defense Fund. I saw a judge who felt bound by the law.

Temperament—for those Members who have practiced in court, I do not like a bully judge, and I know it when I see it. I don't mind being pressed, I don't mind being challenged, I don't mind being interrupted. I just do not want to be belittled in front of my clients for no good reason.

There were some things said about Judge Sotomayor, anonymous comments from lawyers who were asked by the Federal Almanac how they rate the temperament of people on the Second Circuit, and Judge Sotomayor had some things said that were, frankly, disturbing. But I looked at the other part of the record, the people who served with her as a prosecutor, the defense attorneys who wrote on her behalf, people who served with her on the court, and I found on balance that her temperament does not disqualify her. Frankly, I found somebody a lot of people from different backgrounds admire.

Ken Starr, one of the strongest conservatives in the country, found her to be a qualified person who would do a good job; Louis Freeh, the former Director of the FBI, is someone who came and vouched for her character and her qualities as a person.

When I look at the record, the anonymous comments by lawyers who were asked by Federal Legal Service did not win the day, nor should they have.

I do not know what is ahead for this country when it comes to picking Supreme Court Justices. I don't know what openings may occur and when they will occur. I know this. Elections have to matter. I don't want to invalidate elections by disagreeing with someone against whom I ran or I opposed politically because when the election is over, everything has to change to some extent. I am not bound to agree with every pick of President Obama, but when it comes to trying to show some deference, I will. I will try to do better for him than he was able to do for President Bush.

I don't want to turn over the confirmation of judges to special interest groups on the left or the right, and that is where we are headed if we don't watch it. Special interest groups are important, they have their say, they have every right to have their say, but we can't make every Supreme Court vacancy a battle over our culture.

I am trying to start over. I have only been here one term plus a few months. But since I have been here, I have been worried about where this country is going when it comes to judges. I happen to be here at a time when we are about to change the rules of the Senate in a way it had never been done in 200 years. I was new to the body, but I was understanding of the law and how our system works well enough to know that I did not want to be part of that. I had not been here long, but I understood what would happen to this country if we changed the rules of the Senate, even though people felt frustrated and justified to do so.

As a member of the minority, I promised President Obama that I would look hard at his nominees. I will try to help him where I can, but I will not abandon the right to say no and to stop, in an extraordinary circumstance, a nominee who I think would be bad for the country and would dramatically change the power of a branch of the government, the Supreme Court, that is very important to every American.

As to my colleagues who find a different decision on the Republican side, I can understand and appreciate why they did not feel comfortable giving their confirmation votes to Judge Sotomayor. But I am trying to look beyond this moment, look to the future and come up with a reason to support her that will create a different way of doing business, that will help the judiciary, the Senate, and the country as a whole.

Senator SESSIONS did an outstanding job. Senator LEAHY did a very good job. People wanted to know more about her at the hearings, but she is limited, like every nominee, in terms of what she can say.

One last comment about Judge Sotomayor. She is 1 year older than I am. I grew up in the Deep South. I am the first person in my family to go to college. I lost my parents when I was in college and had a 13-year-old sister to raise.

She grew up in the Bronx, came to this country from Puerto Rico. Her mother joined the Army. She lost her dad when she was very young. Her mother raised Judge Sotomayor and her brother under difficult circumstances. Her brother is a doctor. She has been able, Judge Sotomayor, to excel academically and reach the highest rung of America's legal system. That, to me, is a hell of a story. Nobody in my family ever expected me to be a United States Senator—including myself. Only in America can these things happen.

I choose to vote for Judge Sotomayor looking at her from the most optimistic perspective, understanding I could be wrong but proud of the fact that my country is moving in the right direction when anybody and everybody can hit it out of the park. I would not have chosen her if I had to make this choice as President, but I understand why President Obama did choose her and I am happy to vote for her.

I yield the floor.

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

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

ORDER FOR RECESS

Mr. ENSIGN. Madam President, I ask unanimous consent that at 1:45 today, the Senate stand in recess for 10 minutes.

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

Mr. ENSIGN. Madam President, I rise to talk about a bipartisan amendment on military voting, a bill I have cosponsored, because counting every vote in our elections is the foundation of our democracy. I thank Senators SCHUMER, BENNETT, CHAMBLISS, and CORNYN for their work on this matter.

This is a long overdue measure to address the problems that our uniformed service men and women face in exercising their constitutional right to take part in elections, a right for which they so bravely fight to protect. Military personnel have encountered many problems in recent elections. They have trouble receiving timely information about elections in their home States. They have trouble registering and obtaining absentee ballots. They have trouble preparing ballots. Most of all, they have trouble returning the ballot to local election officials in time for their vote to be counted.

It has been a national embarrassment to read news stories of military ballots that have been delayed. Despite the best efforts of those voters, those votes were not counted. Those military voters were disenfranchised from the same democracy they are charged with protecting because of administrative redtape.

According to a Pew Charitable Trust study, one-third of States do not provide military voters stationed abroad enough time to vote. Additionally, it found that 25 States and the District of Columbia need to improve military absentee voting to ensure our men and women stationed around the globe can participate in the democratic process. While it concluded that my home State of Nevada gave its voters enough time to vote, there are still steps that could be taken to make the process simpler. Providing half of the country with insufficient time is entirely unacceptable.

This study went on to say that by almost every measure, military and overseas voting participation is much lower than the general population. In 2006,

voter turnout was approximately 20 percent for military voters as opposed to approximately 40 percent for the general population. These statistics illustrate that those who are fighting to protect our democracy are not being afforded the opportunity to participate in it.

Both the Department of Defense and State and local election officials have not done enough to address these problems. The Military and Overseas Voter Empowerment Act of 2009 would address some of these problems to help military personnel have their votes count. The bill establishes new requirements for the States and for the Department of Defense to make it easier for military and overseas voters to participate in elections. The key requirement is for States to allow sufficient time for these voters who are overseas to receive their ballots, vote, and return them in time to be counted.

Other provisions in the bill include having States provide online and fax systems to deliver registration and absentee ballots; making the Department of Defense provide improved ballot delivery and mail service for troops; and having the Department of Defense provide improved Federal voting assistance such as designating and training voter assistance officers and providing registration and absentee ballot information at every installation. While these are challenges, they are not insurmountable, especially when we consider the outcome—providing the men and women in uniform with the opportunity to vote. We, as Americans, owe them that opportunity.

My office has been in touch with the office of the Secretary Of State of Nevada to continue to work through these challenges. Implementing these changes will not be simple. My colleagues and I have modified the bill to address some of these concerns and will continue to work with our States and localities going forward.

For example, the original version of the bill focused attention on the steps that States must take, even though we know that many States, such as Nevada, have local election officials who carry out important election activities. We never had any intention of reaching into States and rearranging that relationship. That is why the Rules Committee modified the bill to clarify that election responsibilities identified in the bill can, of course, be delegated to the appropriate local election officials. The negotiation process is ongoing because the objective of ensuring that military votes are counted on election day is so critical.

I fully expect we will find new issues to work through, but we must keep our eyes on the main goal—improving the system to protect the voting rights of our military personnel. There are few rights we exercise greater than choosing our own elected officials. We cannot call ourselves a democracy if we do not count the votes of our citizens in elections of government officials. The men and women who put their lives on the line for you and me to protect our country are certainly no exception. It is time that we take steps to protect their right to vote.

I encourage my colleagues to make sure that this particular amendment is included in the Defense authorization bill. This is critical ahead of the election so States have time to prepare and every person in the military who wishes to exercise their right to vote is allowed to do so and their vote is counted in time for the 2010 elections.

RECESS

Mr. ENSIGN. I ask unanimous consent that the Senate stand in recess, as under the previous order.

There being no objection, the Senate, at 1:43 p.m., recessed until 1:56 p.m., and reassembled when called to order by the Presiding Officer (Mrs. HAGAN).

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3 Leg.]

Akaka	Dorgan	McConnell
Alexander	Durbin	Merkley
Barrasso	Enzi	Murkowski
Bennet, Colorado	Feingold	Murray
Bennett, Utah	Franken	Pryor
Bingaman	Gillibrand	Reed, Rhode Island
Bond	Graham	Reid, Nevada
Boxer	Gregg	Risch
Brownback	Hagan	Roberts
Bunning	Inhofe	Sessions
Burr	Inouye	Shaheen
Burris	Isakson	Specter
Cantwell	Johanns	Tester
Cardin	Kaufman	Udall, New Mexico
Casey	Klobuchar	Vitter
Chambliss	Kohl	Voinovich
Coburn	Kyl	Warner
Cochran	Leahy	Webb
Corker	Levin	Whitehouse
Cornyn	Lieberman	Wicker
Crapo	Martinez	
DeMint	McCain	
Dodd	McCaskill	

The PRESIDING OFFICER (Mr. INOUYE). A quorum is present.

DISMISSAL OF ARTICLES OF IMPEACHMENT AGAINST SAMUEL B. KENT, JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

The PRESIDING OFFICER. Under the previous order, the Senate will convene as a Court of Impeachment in the trial of Samuel B. Kent, former United States District Judge for the Southern District of Texas.

The Sergeant at Arms will make the proclamation.

The Sergeant at Arms of the Senate, Terrance W. Gainer, made the proclamation, as follows:

Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States, Articles of Impeachment against Samuel B. Kent, former Judge of the United States District Court for the Southern District of Texas.

The PRESIDING OFFICER. The Secretary for the majority.

The SECRETARY FOR THE MAJORITY. Mr. President, I announce the presence of the managers on the part of the House of Representatives to continue proceedings on behalf of the House concerning the impeachment of Samuel B. Kent, former Judge of the United States District Court for the Southern District of Texas.

The PRESIDING OFFICER. The managers on the part of the House will be received and assigned their seats.

The managers were thereupon escorted by the Sergeant at Arms of the Senate, Terrance W. Gainer, to the well of the Senate.

The PRESIDING OFFICER. The majority leader of the Senate is recognized.

Mr. REID. Mr. President, at this time the oath should be administered in conformance with article I, section 3, clause 6 of the Constitution and the Senate's impeachment rules to those Senators who were not in the Chamber while the Articles of Impeachment were presented.

The PRESIDING OFFICER. Are there Senators who were not present?

Senators shall now be sworn: Do you solemnly swear that in all things appertaining to the trial of the impeachment of Samuel B. Kent, former Judge of the United States District Court for the Southern District of Texas, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

SENATORS: I do.

Mr. REID. The Secretary will note the names of the Senators who have been sworn today and will present to them for signing the book which is the Senate's permanent record of the administration of the oath.

The following named Senators are recorded as having subscribed to the oath this day:

BENNET
COCHRAN
FRANKEN
ROBERTS

The PRESIDING OFFICER. The managers on the part of the House will now proceed.

Representative SCHIFF. Mr. President, following the resignation of Judge Samuel B. Kent effective June 30, 2009, the House adopted the following resolution directing the managers to request on the part of the House that the Articles of Impeachment be dismissed, which, with the permission of the President of the Senate, I will read:

H. Res. 661 in the House of Representatives, U.S., July 20, 2009.

Resolved, That the managers on the part of the House of Representatives in the impeachment proceedings now pending in the Senate

against Samuel B. Kent, formerly judge of the United States District Court for the Southern District of Texas, are instructed to appear before the Senate, sitting as a court of impeachment for those proceedings, and advise the Senate that, because Samuel B. Kent is no longer a civil officer of the United States, the House of Representatives does not desire further to urge the articles of impeachment hitherto filed in the Senate against Samuel B. Kent.

Mr. President, pursuant to the terms of the said resolution, the managers on the part of the House, by direction of the House of Representatives, respectfully request the Senate to discontinue the proceedings now pending against Samuel B. Kent, former Judge of the United States District Court for the Southern District of Texas.

The PRESIDING OFFICER. The majority leader of the Senate.

Mr. REID. Mr. President, as the Sergeant at Arms advised the Senate prior to the July 4 recess, following the service of the summons on Judge Kent by the Sergeant at Arms on June 24, 2009, Judge Kent tendered his resignation as a United States District Judge, effective June 30, 2009. At the direction of the Senate, the Secretary delivered Judge Kent's original statement of resignation to the President. On June 29, 2009, counsel to the President accepted Judge Kent's resignation on behalf of the President. The House of Representatives has now moved that the Senate dismiss the Articles of Impeachment.

Mr. President, I have conferred with the distinguished Republican leader, Mr. MCCONNELL, and with the distinguished Chairman and Vice Chairman of the Impeachment Trial Committee on the Articles Against Judge Samuel B. Kent appointed by the Senate, the Senator from Missouri, Mrs. MCCASKILL, and the Senator from Florida, Mr. MARTINEZ. All are in agreement that, with the resignation of Judge Kent, the purposes of the House's prosecution of the Articles of Impeachment against Judge Kent have been achieved. Judge Kent is no longer serving on the Federal bench, and he has ceased drawing his judicial salary. It is agreed that no useful purpose would now be accomplished by proceeding further with the impeachment proceedings against Judge Kent.

Accordingly, I now move that the Senate order that the Articles of Impeachment against former Judge Samuel B. Kent be dismissed and that the Secretary be directed to notify the House of Representatives of this order.

The PRESIDING OFFICER. The question is on agreeing to the motion to dismiss the Articles of Impeachment.

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I wish to thank, on behalf of the entire Senate and the House of Representatives, the Chairman and Vice Chairman and all of the members of the Impeachment Trial Committee for their willingness to undertake this task. I ask unanimous consent that the Impeachment Trial Committee on the Articles Against Judge Samuel B. Kent be terminated.

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

Mr. REID. That concludes the proceedings on the trial of the impeachment of Judge Samuel B. Kent. As such, I move that the Court of Impeachment stand adjourned sine die.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent to proceed as in morning business.

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

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

(The remarks of Mr. MCCONNELL pertaining to the introduction of S. 1493 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010—Continued

Mr. BURRIS. Mr. President, I rise to speak on the National Defense Authorization Act, S. 1390.

Mr. President, as a member of the Armed Services and Veterans Affairs committees, I have addressed this Chamber many times about the need to keep our Nation's commitment to the brave men and women who-fight for this country.

It is a commitment that begins on the day they volunteer for military service, and it extends through the day they retire and beyond.

But just as we work to uphold our obligation to servicemembers who are in harm's way, we need to offer strong support to those who they leave here at home.

Military families bear a burden that must not be forgotten. They, too, deserve our utmost gratitude.

Mr. President, that is why we must increase funding for impact aid, a program which, in part, provides assistance to school districts that serve military families.

Throughout my career in public service, I have been a strong believer in education as a powerful force to shape lives—to give people the tools they need and the inspiration that will help them succeed.

But even when we see an improvement in scholastic performance at the national level, certain groups of students continue to fall further and further behind.

Many children of Federal employees, including military personnel, fall into one of these groups.

Military installations—and other Federal facilities—occupy land that might otherwise be zoned for commercial use.

Because of this, local school districts suffer from a reduced tax base to fund their expenses.

This limits the amount that can be spent in the classroom and leaves students at a serious disadvantage compared with children in neighboring towns.

In North Chicago, IL—the home of the Great Lakes Naval Training Center—only half of the 4,000 students meet or exceed State standards.

Even with some Federal assistance, North Chicago's School District 187 is able to spend just under $7,000 per student, per year.

But nearby District 125 has the resources to spend nearly twice as much per pupil, and the school performs among the best in the State.

An increase in impact aid funding would help to level this playing field, ensuring that the children of our soldiers, sailors, airmen and marines are not at a disadvantage because of their parents' service.

Impact aid funds are delivered directly to the school districts in need, so they do not incur administrative costs at the State level.

This makes it one of the most efficient—and effective—Federal education programs.

Scott Air Force Base is located near Mascoutah, IL—a community whose schools receive impact aid funding.

The local school district is able to spend only $6,000 per year on each child, but 90 percent of the students meet or exceed State standards.

If these are the results that some students can achieve with only $6,000 per year, imagine how well Mascoutah's schools might perform with even a small increase in available funds.

It is impressive that school districts like North Chicago and Mascoutah are able to operate as effectively as they do, especially when compared to the national per-pupil expenditure of $9,700 per student.

Mr. President, it is vital that we target Federal assistance to those who need it most.

That is why I am proud to be a member of the Senate impact aid coalition, a group of 35 Senators devoted to protecting this important program.

And that is why I believe that the $50 million we have set aside for schools

that are heavily impacted by military students is a step in the right direction in our commitment to military families.

It is time to make sure all children have access to a quality education, regardless of who they are or where they are from.

I applaud Chairman LEVIN and Ranking Member MCCAIN for their support of this funding in the past—and for including funding in the fiscal year 2010 Defense authorization bill.

This funding will be significant to military children across the country.

To students in North Chicago, Mascoutah, O'Fallon, and Rockford—and hundreds of communities in Illinois and over 260,000 students in 103 school districts across the United States.

We owe them the same support we continue to show to their parents in uniform.

And it is time to step up our efforts to meet that commitment.

Mr. President, I yield the floor.

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

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

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

HEALTH CARE REFORM

Mr. DEMINT. Mr. President, I will return to the issue of health care in America, the reform of our health care system, and how we help Americans find the health insurance that is affordable to every family.

It is important, as we talk about this, that we get the facts out on the table. I am glad to see this has become an issue that is front and center. I know the President called for a press conference tonight to talk about his vision of health care. I want to set the record straight on a number of things that have been said that I think are politically motivated and, obviously, don't represent the truth.

My colleagues on the other side of the aisle, including the President, have talked about Republicans representing the status quo on behalf of big special interests, and they have accused us of representing the big insurance companies, when, in fact, the voting record in the Senate has proved the exact opposite.

When the President was in the Senate, and when we, as Republicans, proposed health care reform—which we did many times while the President was a Senator—the President and my Democratic colleagues voted with the big insurance companies. We had one proposal that would allow small businesses to come together to buy health insurance for their employees at a lower price. The big insurance companies opposed that, but the Democrats voted with the big insurance companies and against the reform proposals.

I put forth a proposal that would have allowed individuals in this country to shop for their health insurance in any State in the country, just like other products and services, to have a competitive national market, which so many on the other side have called for. The big insurance companies that have State-by-State monopolies opposed that bill. Senator Barack Obama and the Democrats voted with the big insurance companies and against Americans' ability to buy health insurance anywhere in the country.

Republicans are not standing with special interests. Look at the proposals that have been put on the table in the House and Senate by the Democrats, which the President will be advocating when he speaks tonight. Let's see what party is representing special interests.

First of all, the abortion industry, Planned Parenthood, and other organizations that make their money performing abortions—their interests are clearly represented in this bill. This proposal the President is advocating would require that health insurance plans cover elective abortions in this country, which means taxpayers who are morally opposed to abortion will be forced to subsidize insurance plans that pay for abortion.

I ask my colleagues, who is representing special interests? Who is representing the abortion industry in this debate?

What about who loses their health care coverage in these new plans that have been proposed? The independent Lewin Group has looked at these proposed plans by my Democratic colleagues in the House and Senate, and they concluded that 80 million Americans who have health insurance that they now like will lose it under this current proposal.

But who is protected? Who would not lose their health insurance? It is union members who are protected. Do we think that has anything to do with politics—that the average American will lose their health insurance but the unions that support the Democratic Party are protected? Who is standing up for special interests in this health care debate?

Let's talk about the plaintiffs' attorneys. One of the biggest problems in health care today is what doctors call defensive medicine—running all kinds of unnecessary tests so they avoid all these expensive lawsuits. We have talked for years about reforming the health care system to eliminate these wasteful, frivolous lawsuits that cost so much money, and every doctor and hospital has to have huge liability policies for the cost of the lawsuits that come every year. You would think a health care reform proposal would have some lawsuit abuse reform in it. But who is protected? What special interests are protected in this health care proposal? The plaintiffs' attorneys. There is absolutely no tort reform, no reform of abusive lawsuits in this plan.

So I ask my colleagues: Who is representing the special interests here—the big insurance companies, the abortion industry, the unions, the plaintiff's attorney? All of those are represented and protected in this so-called health reform legislation that does nothing to help individuals access affordable personal policies for themselves.

When the President was in the Senate, I personally every year proposed major health care reform. I proposed that individuals who do not get their insurance at work at least get to deduct the cost of that insurance from their taxes, as we let businesses do. Barack Obama voted against that, and so did my Democratic colleagues.

I proposed that individuals be allowed to buy health insurance anywhere in the country so that it would be more affordable, more competitive. Barack Obama voted against that, and so did my Democratic colleagues.

Republicans proposed small businesses come together and buy health care less expensively so they could provide more health insurance to their employees. Barack Obama voted against that, and so did my Democratic colleagues.

I ask you: Which party is standing for the status quo of trying to keep things the same? Real health care reform has been proposed in the Senate many times by Republicans. But the truth is, the Democrats do not want individual Americans to have access to affordable health insurance. What they want is a government takeover of health care. The President has made that clear by his own voting record.

As he holds his press conference tonight, I am sure the crowd will be loaded with friendly reporters, but there are a few questions I would like him to answer.

If the major provisions in this health care bill he is promoting do not take effect until 2013, which they don't, why this mad rush to pass a bill that is over 1,000 pages that no one in this body has read? Why the mad rush to pass it before we go home for the August break?

I can answer it for him. Because if Americans find out what is in it, they are not going to support it.

I have a second question: You said your health care bill will cut costs and not increase the deficit. But the independent analysis of the nonpartisan Congressional Budget Office contradicts those claims, saying it will raise costs and increase the deficit by $240 billion. The policy does not support the promise.

A third question: The President has repeatedly said that the health care bill will allow Americans who like their current plans to keep them. But as I said, an independent expert group, the Lewin Group, has analyzed this legislation and concluded that it will force over 80 million Americans to lose the health insurance they have today.

Question No. 4: The President said the other day when he was speaking at Children's Hospital that opponents of the plan are content to perpetuate the status quo. How does that compare

with your record, Mr. President, when you were in the Senate? What health reform did you propose? Why did you vote against every health reform proposal that could have increased access to affordable health insurance for all Americans?

And just a yes-or-no question: Will you guarantee that pro-life Americans under your plan will not be forced to subsidize elective abortions?

I hope the President will answer some of these questions for the American people because I am convinced that if Americans know the truth about this legislation, they will conclude this is not about getting them affordable health insurance or access to quality health care. This is a continuation of this power grab that is going on in Washington.

This spending spree, this proposal for more and more taxes, is a power grab for the government to take over yet another industry, the health care industry in America. Health care is the most personal and private service we have for ourselves and our families. Why would we want to turn that over to government to make the decisions for us?

The ACTING PRESIDENT pro tempore. The Senator has used 10 minutes.

Mr. DEMINT. Mr. President, I thank you for your indulgence. I encourage my colleagues to read any bill we vote on before the August break.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, I wish to address the Senate as in morning business.

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

Mrs. BOXER. Mr. President, I ask unanimous consent that after the Republicans have a chance to speak, the next Democrat be Senator KAUFMAN.

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

HEALTH CARE REFORM

Mrs. BOXER. Mr. President, we just heard the Senator from South Carolina urging Members to vote against the health care bill. He talks about the truth about the health care bill. We don't have a health care bill before the Senate because we have two committees that are working on it. One already reported out a bill, the HELP Committee, which stresses prevention, because we all know that if you look at the major costs to our families, they all encompass—70 percent of them—five major diseases. I think we know what they are. They are heart issues, pulmonary issues, cancer issues, stroke issues. We know what they are. Putting prevention first, which is not something we have ever done, is going to save money, is going to make our people healthier, is going to work. There are many other aspects of the health bill that are very good for our people.

I have to say, when the Senator from South Carolina comes to the floor and starts attacking Democrats, I think people have to understand that very Senator was quoted in the press as saying that essentially we can break Barack Obama if we destroy his push for health care. He said it will be his Waterloo.

I support my colleagues' right to say what they want. They will be judged by what they say. They will be judged by what is in their heart. They will be judged on how they act. But we are here to take care of the American people, not to bring down a President or raise up a President. Our job is to represent the people who sent us here. It is not to break a President. It is not to play politics with one of the most important issues facing our country. And good for this President for having the courage to step forward and point out that the current status quo on health care is disastrous, and, yes, we are going to address it and we are going to make sure that the people in this country, if they like their health care, can keep what they have, keep their insurance. If they don't, they have a chance to buy into other options. That will be their choice. We will stress prevention now. We will have healthier families.

I want to point out that there has been a recent study that says if we do nothing, if we bring down this opportunity we have to do something to better the health care system in this country, if we turn away from that and do nothing, in California, by 2016, Californians will have to spend 41.2 percent of their income on health insurance. I want you to think about that. And that is not the worst. In Pennsylvania, Senator CASEY told me, it would be over 50 percent of people's incomes. How are we going to sustain that? Who can sustain spending 40 percent of their income on premiums? Fifty percent? It isn't going to happen. People will have to walk away. People will get sicker.

We cannot afford the status quo. That is why I have this chart here that says: No equals the status quo. It is no, no, no. No, let's not do this. No, let's not help our President. No, let's not address this issue. Scare tactics, throwing around words, ''government-run health care.''

I say to my friend from South Carolina—unfortunately, he is not here—government-run health care, does he want to bring down the veterans health care system? Just try that one with your veterans. That is a government-run health care system. Veterans get free health care. Does he want to bring down the health care that our military gets every single day run by this government? Of course not. They are getting the best care in the world on the battlefield, and it is done because taxpayers pay the freight. That is a government-run health care.

Does my friend want to bring down Medicaid that helps the poor people get some insurance? I hope not because it would be tens of thousands of people in his State, including many children. How about SCHIP? That is a government-run health care system that helps our poor kids. Does he want to bring it down? Why doesn't he try to do that? See where the votes are. And last but not least, Medicare. Medicare is a single-payer system, government run, very low overhead costs. Our seniors love Medicare. Does my friend want to bring down that government health care system?

This is ridiculous. There is no plan that is moving forward that is a government takeover. Yes, we keep veterans health care going and military health care going. Yes, we keep SCHIP for the kids going. Yes, Medicaid. Yes, veterans. But we don't expand that except to say as we go out to the American people to tell them we are going to save them from enormous premium increases, that there will be an option, a choice they can make to buy into a public plan or a public interest plan. Some say it could be a co-op. We don't know the details. But to have my friend from South Carolina come to this floor and tell us: Vote no on this health care when we don't even have a plan before us means he is for the great big red stop sign because no equals the status quo. And no action is in itself a hostile act.

Employer-sponsored health care premiums have more than doubled in the last 9 years. Two-thirds of all personal bankruptcies are linked to medical expenses. Let me say that again. Two-thirds of all personal bankruptcies are linked to medical expenses. And how about this: The United States spends more than twice as much on health care per person than most industrial nations, and it ranks last in preventable mortality. It ranks last in preventable mortality, and we spend twice as much as any other nation. Status quo is no, no change.

Is that what we want to see continued—continued increases in premiums for businesses, for individuals, getting to a point where it is 40, 50 percent of a family's income? That is not sustainable. Where do they get the money for food, for clothing, for shelter?

The other problem we have is 46 million Americans have no health insurance, including one in five working adults. What does that mean? It means that the people without health insurance are waiting for a crisis to occur. They don't take any preventive steps. They don't see a doctor until late in the process in an emergency room. It means that we are picking up the bills because when people go to an emergency room and they cannot pay, who is picking up the tab? Those of us who have insurance. That is how it goes.

I am hoping that the American people weigh in on this debate, as they have begun to do. I was told ever since I was a young person that you need to try hard when there is a problem. Try hard. Be constructive. Don't call other people names. You may disagree with them, respect them. Don't try to bring them down, don't try to break them. Make your arguments; put forward an

alternative. I have looked at the course of history, and history says to people who do nothing that they haven't contributed very much. In this case, because the status quo is unsustainable, they are hurting our people. They are hurting our people. More than half of all Americans live with one or more chronic conditions. The cost of caring for an individual with a chronic disease accounts for 75 percent of the amount we spend on health care. I have those five chronic diseases in front of me. They are: Heart disease, cancer, stroke, chronic obstructive pulmonary disease, and diabetes. Those five are responsible for more than two-thirds of the deaths in the USA. That is information that is important because, when you look at this, many of these can be prevented and treated in a way so that they do not wind up costing so much and hurting our families.

We have an extraordinary opportunity before us, and I think you are going to see the parties showing who they represent. Do they represent the forces of the status quo that are going to scare people or do they represent the forces of change—positive change? I think history will show that those who stepped to the plate here and were constructive are going to be the ones about whom people say: She tried. He tried. He fixed a lot of problems. Not all of them. but they started moving in the right direction.

Our families deserve change here. Our families cannot sit back and absorb the kind of increases in health care premiums they have seen in the past. We know how to fix it. If we work together, we will be able to fix it.

I wish to take a minute to thank the Republicans who are working so constructively with our Democrats. You don't hear them speaking much on the floor, as you did the Senator from South Carolina, who, as I say, was quoted as saying he wants to make health care President Obama's Waterloo. He wants to break him on this. The Republicans whom you don't see on the floor talking like that are the ones who are sitting with the Democrats, working day after day, night after night, to solve this problem.

I hope people will remember, when you hear these scare tactics—government-run health care—that we don't even have a bill yet, and they are saying it is about government-run health care, not one bill that I have seen is government-run health care, not one. But I challenge my friends. If they do not like Medicare—it is government run—why not try to repeal it and see how many senior citizens come to your office. If my Republican friends don't like government-run health care, take away the health care from the veterans because it is government run. Take away health care from the military. Privatize that. Take away Medicaid. Take away SCHIP from our kids.

They are not going to do that because they know these programs work. Are they perfect? Of course, they are not perfect. Do we have to continue to make them better? Yes, we do. But we need to come together. We need to find that sweet spot that we look for in legislation. I wish to, again, thank those Republicans who are meeting with the Democrats. Be courageous. Stick with it. Don't play politics. Don't try to bring down this young President. Try to work with him. Don't threaten that this is going to be a Waterloo. Don't talk about government-run systems when that is not in the bill. Don't frighten people. Because at the end of the day, this is our moment if we work together.

I certainly reach out my hand and compliment those who are willing to work across party lines because we cannot sustain the health care system as it is. We can make it better, we can make it affordable, we can keep choice in there, we can turn to prevention, and that is what I hope we will do. We will work hard, but I think we can do it with the help of some courageous folks on the other side of the aisle.

I yield the floor.

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business and ask the Chair to please let me know when I have finished 9 minutes.

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

Mr. ALEXANDER. Mr. President, I was listening to the Senator from California, and with respect to her comments let me state the position of the Republican Senators on health care reform. Our leader, Mitch McConnell, the Senator from Kentucky, stated yesterday to the news media: This isn't about winning or losing. This is about getting it right.

Health care is very personal to every one of us, to every one of our families, and to all the American people. Our goal, on the Republican side, and I am sure for many Democrats as well, is to start with cost and make sure we can say to the American people they can afford their health care policy; and when we have finished fixing health care, they can afford their government. So far, that has not been the case.

We have offered plans which we believe will reach that goal. Just to give my own example: Last year, I joined with Senator WYDEN, a Democrat; Senator BENNETT, a Republican, in endorsing their plan. It is not perfect, but it is a very good plan, and it has a completely different approach than the bill that came out of the Senate HELP Committee or that is coming through the House. I believe it is a better approach.

The point is there are 14 Senators on that plan today—8 Democrats and 6 Republicans. Why isn't it being considered? It doesn't have a government-run program in it. Why shouldn't we talk about not having a government-run program? Medicaid, the largest government-run program we have today, is used to cover low-income Americans and forces them to take their health care in a system that 40 percent of America's doctors won't serve because, in general, they are paid about half as much for their services as they are if they serve the 177 million of us who have private health insurance.

The Wyden-Bennett bill is constructed along the idea of rearranging the subsidies we already give to the American people for health care and gives it to everyone in a way that will permit them—all the American people—to afford a health insurance plan that is about the same as a plan that congressional employees have. Literally, we would say to low-income Americans: Here, take this money and buy a private insurance plan of your own, like the rest of us do. This is a much better idea than dumping 20 million more people into a failed government program called Medicaid—which is not only not serving those low-income people but bankrupting States.

What is wrong with that idea, 14 of us think it ought to be considered? Yet it has not been given the time of day.

Senator COBURN and Senator BURR have proposals that I have endorsed. Senator GREGG has a proposal. Senator HATCH has a proposal. None of them have been given the time of day.

We have had very friendly discussions, but they do not qualify as bipartisan discussions. I give the Senate Finance Committee members great credit for trying to work in a bipartisan way, but they are working in a bipartisan way that is still going in the wrong direction, which is expanding an existing government plan that has failed—Medicaid—they are working on creating a new government plan for people who lose their health care under the theories that have been proposed. Don't think they are not.

I would hope the President would see what is happening and say: Whoa, let's slow down. I have stated what I want. I have put my neck out. I have said to the American people, if they have a health care plan they like, they can keep it. Unfortunately, under the plans we see today, they are going to lose their health care. They have a very good risk of losing their health care and ending up, if they are poor, with their only option being a failed government program that none of us would join, if we could possibly avoid it.

Why would we stuff 20 million people into a program we don't want to be in, when we could give them the opportunity to be in a program similar to the one we are in? That is what we should be doing. On the Republican side, we are saying to our Democratic colleagues: We know you have the majority. We know you have the Presidency. But we have some ideas we think the American people would benefit from.

We only have one chance to pass this, to change this big system we have, and

we better make sure we do it right. If you don't want to take our advice, we would say, respectfully: Why don't you listen to some others? There is the Mayo Clinic. The Senator from California asked: Why are they talking about government programs? Because the Mayo Clinic—often cited by the President, by many of us, as the kind of high-quality, good results, low-cost health care we would like to have more of—the Iowa Clinic, the Marshfield Clinic, and other clinics say these health care plans are headed in the wrong direction, and one reason is because they would create a new government plan which would eventually drive the Mayo Clinic and these other clinics out of the market, which means they wouldn't be serving Medicare patients.

So why would we do that? I think we should take our time and get it right. If the Mayo Clinic is saying we are heading in the wrong direction, if the Democratic Governors are saying that, if the Congressional Budget Office is saying we are adding to the cost and adding to the debt, wouldn't the wise thing be to say: Well, maybe they have a point.

Gov. Phil Bredesen of Tennessee, a Democrat from my State, knows a lot about health care—Medicaid—and he says Congress is about to bestow ''the mother of all unfunded mandates.'' Governor Bredesen, a former health care executive, continued:

> Medicaid is a poor vehicle for expanding coverage. It is a 45-year-old system originally designed for poor women and children. It is not health care reform to dump more money into Medicaid.

Here is the Governor of Washington, a Democrat.

> As a governor, my concern is if we try to cost-shift to the States we're not going to be in a position to pick up the tab.

Gov. Bill Richardson of New Mexico, a Democratic Governor, said:

> I'm personally very concerned about the cost issue, particularly the $1 trillion figures being batted around.

Gov. Bill Ritter of Colorado, a Democrat.

> There's a concern about whether they have fully figured out a revenue stream that would cover the costs, and that if they don't have all the dollars accounted for it will fall on the States.

So said Gov. Jim Douglas of Vermont. And Gov. Brian Schweitzer of Montana said:

> The governors are concerned about unfunded mandates, another situation where the Federal government says you must do X and you must pay for it. Well, if they want to reform health care, they should figure out what the rules are and how they are going to pay for it.

So instead of standing on the other side and saying the Republicans are saying no, I am saying the Republicans are saying yes. We support the bipartisan Wyden-Bennett bill. We have offered the Burr-Coburn bill. We have offered the Gregg bill. We have the Hatch bill. Take our proposals and consider the ideas because they do not involve government-run programs, they do not dump low-income people into Medicaid, where you would not be able to see a doctor. That is akin to giving someone a bus ticket to a route with no buses. We already do it with 60 million people, so why should we do it with 80 million people, which is the suggestion we have.

We want to work with the President and with our friends on the Democratic side to come up with health care reform this year. We want to be able to say to the American people: We want a plan you can afford for yourself. And when we're finished fixing it, we want a government you can afford. If the Mayo Clinic and the Democratic Governors and the Congressional Budget Office are all saying we are headed in the wrong direction, then why don't we start over and work together and try to get a result we can live with for the next 30 or 40 years?

We can only do this once, and we need to do it right.

I thank the President.

The ACTING PRESIDENT pro tempore. The Senator has used 9 minutes.

Mr. DURBIN. Will the Senator yield for a question?

Mr. ALEXANDER. On the Senator's time, I will be happy to.

Mr. DURBIN. I don't know that we are in controlled time; are we, Mr. President?

The ACTING PRESIDENT pro tempore. We are not in controlled time, but the next speaker to be recognized under the unanimous consent agreement is the Senator from Delaware, when the time of the Senator from Tennessee has expired.

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

HONORING DR. DEBORAH JIN

Mr. KAUFMAN. Mr. President, I have often spoken about the need to invest in technology and innovation. We cannot afford to fall behind in this area after leading the world in science research and discovery for half a century.

Since I began coming to the floor to talk about great Federal employees, I have honored individuals who have made significant contributions in the areas of engineering, medicine, defense, housing assistance, land conservation, and international aid. The list of fields benefiting from the work of our Federal employees is lengthy.

Another such area is physics. At a time when our planet faces resource scarcity and higher energy costs, the work of physicists at Federal research institutions remains an important investment in our future security and prosperity.

Dr. Deborah Jin is one of these outstanding Federal employees pioneering advances in the field of physics. She serves as a research team-leader at the JILA–National Institute of Standards and Technology joint institute in Boulder, CO.

Deborah's team created a new form of matter, a major discovery in the race toward superconductivity. Superconductivity, or using extremely low temperatures to move electrons through a magnetic field, can potentially lead to breakthroughs in energy efficiency and computing. Her work will likely improve the lives of hundreds of millions of people.

This achievement was far from easy. To create a new form of matter, Deborah and her team needed to get particles called fermions to join together in pairs. Unfortunately, fermions have a natural tendency to repel each other.

Deborah discovered that fermions will pair up when exposed to certain gasses at more than 450 degrees below zero.

This exciting advance takes us one giant step closer to understanding superconductivity. The uses of this technology could include faster computers and cell phones, smaller microchips and more efficient home appliances. Potentially, superconductivity could eliminate the ten percent of energy lost in transfer from power plants to homes and businesses.

Deborah and her colleagues exemplify the spirit of ingenuity and determination that has always characterized Americans working in scientific research. They had been racing against six other teams from laboratories around the world, and they were the first to reach this milestone.

It is unlikely that we will be able to appreciate the full extent of this breakthrough for many years, and future generations may not remember those who worked so hard to achieve it.

But, like all of those who work in public service, Deborah knows that she and her team have made a difference—that the impact of their findings will be felt in every subsequent discovery on the path to making superconductors a reality.

I call on my fellow Senators and on all Americans to join me in honoring the service of Dr. Deborah Jin, her colleagues at the joint institute in Boulder, and all Federal employees working on scientific research. They are the unsung heroes of America's global leadership in science and technology.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I want to speak briefly about a very important amendment, amendment No. 1725, which I think will help us restore the franchise, the vote, to our deployed military overseas. This is a bipartisan amendment. The lead sponsors are Senator CHUCK SCHUMER and Senator BOB BENNETT, the chairman and ranking member of the Rules Committee, but this builds on the work Senator BEGICH and I, Senator CHAMBLISS, and others have put into this effort to address what can only be described as a national disgrace.

Our military service members put their lives on the line to protect our rights and our freedoms. Yet many of them still face substantial roadblocks

when it comes to something as simple as casting their ballots and participating in our national elections. Sadly, this is not a new problem. President Truman urged Congress to address obstacles to voting faced by troops serving in Korea. Today, however, troops deployed in Afghanistan and Iraq face many of the same problems.

In 2006, less than half of the military voters who requested absentee ballots were successful in casting them, according to the U.S. Election Assistance Commission.

In 2008, those problems continued. More than a quarter of the ballots requested by uniformed and overseas voters went either uncollected or uncounted, according to a recent survey of seven States with high military voting populations.

In a soon to be released study of the 2008 cycle which looked at 20 States with large military populations, the Heritage Foundation has concluded that as many as three-quarters of our troops and their family members were ''disenfranchised by their inability to request an absentee ballot'' and that as many as one-third of the ballots that were requested never reached the appropriate election officials to be counted.

Voting has remained a challenge for our troops and their families for many reasons. First, our election laws are complex and multiple levels of government are involved. Election challenges and other unforeseen events can delay the finalization of ballots. The high tempo of military operations often requires frequent deployments for our troops and their families.

Let me describe what this amendment, which I hope we will adopt later today, does.

Our legislation addresses several of the biggest roadblocks our troops and their families face when attempting to vote. First, this legislation will provide voter assistance services to every service member and family member upon transfer to a new military installation. As part of each installation's in-processing, every service member will now be offered an opportunity to fill out a simple form the Department of Defense will return to the appropriate election officials. That form will update the address on file with election officials and request absentee ballots for the next Federal election cycle. These voter assistance services will give our military personnel some of the support that civilians now enjoy through motor voter laws.

Second, this legislation reduces the reliance on snail male for correspondence between troops and their election officials. Under current election laws, many troops must mail a request for an absentee ballot, then wait for the election officials to mail them the blank ballot, and then to return the completed ballot in time to be counted. This legislation requires elections officials to create electronic blank ballots and to post them online. Election officials must also accept faxes and e-mails to expedite correspondence with our troops.

Together, these reforms will reduce dependence on snail mail until the service member is ready to return the completed ballot to be counted.

Third, this legislation will expedite the return of the completed ballot to election officials. Under current law, each servicemember is responsible for making sure his or her ballot is postmarked and returned on time. This legislation requires the Department of Defense to take possession of completed ballots and ensure that they get to election officials on time by using Express Mail, if necessary.

This legislation also requires election officials to give our troops 45 days, at least, to return their ballots.

This important amendment contains many other commonsense reforms suggested by other Senators and will help end the effective disenfranchisement of our troops and their families. Our goal has been to balance responsibilities between elections officials and the Department of Defense, and I believe this amendment accomplishes that goal.

As I said, this amendment would not be in its current posture without the leadership of Senator SCHUMER and Senator BENNETT. And I appreciate them working to include two pieces of legislation I introduced earlier this year, something called the Military Voting Protection Act, which, just this weekend was unanimously endorsed by the National Association of Secretaries of State, and a second piece of legislation called the Military Voters' Equal Access to Registration Act. These two pieces of legislation have received broad bipartisan support from the beginning, including Senators BEGICH, INHOFE, WYDEN, VITTER, and HUTCHISON. We have also worked closely with leaders in the House of Representatives, especially Congressmen KEVIN MCCARTHY and DUNCAN HUNTER.

All of our work was not done in Washington. We relied on support and technical assistance from the Texas Secretary of State's Office, especially our Director of Elections, Ann McGeehan, dozens of military support organizations and veterans service organizations, and many other citizens and patriots who want our troops to enjoy their right to vote—that it be protected, particularly for those who defend all of us.

I urge all of our colleagues to support this amendment when it comes to the Senate floor, I hope, later on today, and to give this important amendment our unanimous consent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

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

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

HEALTH CARE REFORM

Mr. DURBIN. Mr. President, once every 20 years we take up critical issues like health care reform. Many of us believe this particular moment in history is perhaps the only opportunity in our public career to tackle an issue of this magnitude. We know overwhelmingly the people of America want us to do this.

Many people like their health insurance policies, particularly if they don't use them. But most people understand the health care system we have in this country is broken. We have to fix what is broken, and we have to preserve those things that are good about the current system.

I have heard a lot of speeches from the other side of the aisle about the situation we currently face, the debate that is underway. I think what recently happened in the Senate HELP Committee is a good indicator of a good-faith effort by the Democratic majority and Senator DODD to try to come up with a bipartisan Republican-Democratic approach.

Over the course of over 60 days of hearings the Senate HELP Committee had filed over 800 amendments, considered over 400 amendments, adopted 160 Republican amendments in the course of 61 hours of straight hearing, and at the end of the day when the rollcall was taken, not a single Republican Senator would support the bill. I think Senator DODD made a good-faith effort, and I think we should continue to.

Now the Finance Committee is taking up the same bill. It will be a lot better bill if it is a bipartisan effort and if compromises are reached, if we try to do this together in an expeditious way. But if it becomes a standoff where there are no Republican votes in support of it or where they will not negotiate, where they all vote against it, then I am afraid it will not be in the best interests of what the American people want to see.

Yesterday on the front page of the Washington Post they had headlines about some of the comments being made by some of my colleagues on the other side of the aisle. The headline read, ''GOP Focuses Effort To Kill Health Bills.'' Not to modify, not to improve, but to kill health bills.

From a perspective of Republican leadership, that is what our health care debate is about. Many of them just want to stop health care reform. It has been 15 years since we made our last effort to provide quality, affordable health care coverage to every American. The Republican National Committee chairman, Michael Steele, today suggested that the President should take another 8 to 10 months to formulate a plan.

It has already been 8 months since Barack Obama won the 2008 election on a platform of reforming health care. It has been 6 months since he took office. Yet on the other side of the aisle, their chairman says let's wait 8 to 10 months more.

It may fit in perfectly with a strategy to delay this debate as long as possible, but it doesn't fit in with a strategy of solving the problem. Tonight,

President Obama will be speaking to the American people, answering questions from the press on health care. Tomorrow, in a trip to Cleveland, he will be visiting the Cleveland Clinic and some other facilities to talk about health care reform. We are just a couple of weeks away from an August recess. We will come back in September and by then I hope we can roll up our sleeves and get to work. The American people want us to. They understand the problem.

Health care spending per person has increased rapidly over the past 10 years, rising over 40 percent. The people of the United States spend over $2 trillion on health care each year. That is more than twice as much per person as any other country on Earth, and our health results do not show that money is being well spent.

Many countries, spending a lot less, get better results. We are wasting a lot of money. It is money that is being taken out in fraud and profit taking. It is money that does not make us feel any healthier. It is just money that we have to pay, many times from paychecks where it is a struggle to pay it.

The average annual premium of family coverage in Illinois during the George W. Bush Presidency, those 8 years, went up $5,000. The average annual premium went from $600 a month to over $1,000 a month.

The employer's share rose by 72 percent, the worker's portion rose by 78 percent. I might tell you in the same period of time, workers' wages were not going up, just the cost of health care. People know this. They sense it is getting out of hand.

Clearly, two-thirds of all the personal bankruptcies filed in America, two-thirds of them, are related to medical expenses. Over 46 million Americans have no health insurance, and 14,000 Americans lose their health insurance every single day.

If you hear about the 47, 48 million Americans without health insurance, and say: It is a darned shame, but the poor will always be with us, and we cannot solve every problem, Senator, sadly, some of your neighbors, maybe some of the members of your family may find themselves in that predicament soon if we do not address health reform.

Those of us who are lucky enough to have health insurance—for the record, Members of Congress have the same health insurance plan as Federal employees, 8 million of us; Federal employees and their families, Members of Congress and staff, are in the same basic health care plan. There is a lot of bad information out there about our health insurance. It is a good plan, do not get me wrong, but it is the same one Federal employees are entitled to. I think that is a fair way to approach it.

But even those of us paying for health insurance are paying a hidden tax. We pay up to $1,000, $1,100 per year per family to subsidize those who are uninsured, who show up at the hospital and still get treated. They get treated, they cannot pay for it, their expenses are shifted to others who do pay. That includes those of us under health insurance, about $1,100 a year.

At this point, we have 2.3 million more people losing health insurance every year across America. It is something that should concern us. But let's get down to specifics. Because I think if my friends on the other side of the aisle will join us on this side of the aisle and talk to American families about what they are going through, we would get a better understanding of why this is so important and why we cannot wait 8 months, 10 months, a year or more, we have to move on this and do it decisively.

There is a fellow in my district who lives in Libertyville, IL. His name is Rene Apack. He has been an insurance broker for 11 years. He knows that business. He sells all kinds of insurance. He will sell private health insurance to close friends and family members, but he shies away from it when it comes to the general public because he says it is too complicated to explain, there are too many underwriting tricks and traps in those insurance policies.

Mr. Apack does not want to get into the business of trying to defend those policies to his clients. If his clients are denied coverage for health care based on some fine print they do not understand, even though he had nothing to do with it, he feels bad about it. So he discourages the sale of private health insurance to his clients.

Medicare, he said, is the opposite. We have heard people come to the floor day after day on the other side of the aisle criticising government health insurance. But I have yet to hear the first Republican Senator call for eliminating Medicare. Medicare covers 45 million Americans, seniors and disabled, with affordable health insurance. It is a government-administered program. I have yet to hear the first Republican Senator say we should do away with it.

It is a program which saves a lot of people, some of whom retire before they reach the age of 65 and run into medical problems and pray they can be eligible for Medicare and not lose their life savings. It happened to a member of my family, my brother.

Luckily for him, Medicare kicked in at the right moment, saved his life savings. It might have saved his life. He is 77 now, so for 12 years Medicare has been helping to pay his bills. Mr. Apack says:

> My mom, my mother-in-law, my uncle—they have Medicare supplement insurance and everything works like clockwork. I have never had one Medicare supplement claim denied.

It is not just his clients who have problems with health insurers, his own health insurance has had a high deductible, $7,000 a year is his deductible on his health insurance for his family coverage, himself, his wife, and his 12-year-old son. Last year his wife was told she needed a routine mammogram, basic preventive care. But they did not know how much it would cost. So they did what conscientious consumers would do since they knew they had to pay the first $7,000 deductible before the health insurance paid anything.

They called and they said: Give us a ballpark estimate of how much it will cost for a mammogram. Is it $200 or $2,000? No one would tell them the price.

Mr. Apack, an insurance broker, said: It is like walking into a restaurant and ordering a meal and hoping you can afford it. In the end, Mrs. Apack decided it was too risky to go in for this test and not know how much it would cost. She did not do it. That is not a good outcome.

Preventive care could save her life and avoid more serious and expensive medical care. A while back, after his premiums increased 38 percent over 2 years, Mr. Apack reapplied with the same insurer, wanted to see if he could lower his premiums by switching to a higher deductible. He answered every question on the application form. Remember, this man is an insurance broker. Then he got a letter from his insurer, and the letter asked him: Are you sure about all the answers you gave us? Do you want to stand by all the answers?

Then he got a phone call from the insurer, and the caller asked: Are you sure there is not something you failed to tell us? And he named a date 8 years earlier. The person from the insurance company said: Is it not true that you had a prescription in your name filled that day 8 years ago?

Well, finally he remembered. Mr. Apack remembered he had been in a car accident that day. He was not hurt badly, but he was a little sore. His doctor said: Here is a prescription for pain medication, take it if you need it. He filled the prescription. Eight years later that prescription apparently gave his insurer pause about keeping him as a customer.

We talk about preexisting conditions. We talk about unknown costs in the current system. To think they could go in your past and find a prescription you filled 8 years ago and call you back and say: Are you sure you have not failed to disclose something here?

That is what the current system is, a health insurance system full of tricks and traps. Those on the other side of the aisle who say we do not need to change it, one Senator from South Carolina said let the market work, which means basically hands off. Mr. Steele, who heads the Republican National Committee, said: Let's wait 8 to 10 more months before we get into that.

Do they not understand what families are facing on an everyday basis? Mr. Apack knows he is probably luckier than some who live around him. One of his neighbors pays $15,000 a year for health coverage for herself,

her husband, and child—more than they pay on their family mortgage.

He met with a client recently, a real estate company with about 50 employees. Last year, the employees all decided to switch to part time so no one would be laid off. Their incomes are down at least 50 percent from a year ago. Their health insurance premiums went up 5 percent.

In the professional opinion of this Illinois insurance broker, we need a better system, health care coverage that is affordable, simple, and fair. That is the challenge we face in the Senate. It is a challenge we cannot ignore.

The Finance Committee now is trying to work out a reasonable way to deal with this challenge. We know the providers have to be in on this conversation. If we are spending more than twice as much as any nation on Earth for health care, then we obviously need to ask if there can be savings.

United Health Care reported their earnings, if you followed that in the business pages of the paper, another big recordbreaking profit, far beyond expectations. Health care insurance companies are doing very well.

Pharmaceutical companies historically have been some of the most profitable companies. There are providers in the health care system that are doing extremely well. We need to bring costs down within the system, without compromising quality. That is the challenge we face.

I know they tried in the HELP Committee adopting 161 Republican amendments and could not find a single Republican Senator to support the final bill. Tonight the President is going to renew the challenge, the challenge to all of us not to miss this once-every-two-decades opportunity to deal with health care.

I fear, if we do that, we are going to find ourselves in an unsustainable position. The cost of health care is going to continue to go up at expense levels we cannot handle as a nation. We have to make sure we have basic health care reform and get it right. We have to reduce costs for families, businesses, and the government. We have to protect people's choice of doctors, hospitals, and insurance plans. If you have an insurance plan you like, you ought to be able to keep it and assure affordable high-quality health care.

We have to make sure health insurance companies are not denying coverage for preexisting conditions, health status or medical condition. We have to eliminate the caps on coverage so a very expensive chronic disease does not end up blowing the top off your health insurance policy and going right into your savings account.

We have to put a limit on out-of-pocket expenses. We have to guarantee equal treatment for men and women, Black, White and brown, young and old, and different geographic locations. Incidentally, I noted the health insurance companies have now said they are going to look into this to make sure they start billing women a little more favorably than they have in the past—I wonder if it has anything to do with our debate—that the basic health insurance plan in America has a kind of coverage and protection that is adequate for every family. We have to bring down the costs.

One of the ways we are going to do that is provide some tax incentives and help for low-and middle-income families. We have to make sure people are paying fair premiums. Finally, we have to make sure we support small businesses. Of the 47 million uninsured, the vast majority of those are people working in small businesses and their families.

Senator SNOWE, Senator LINCOLN, myself, and others have introduced a bill called the SHOP bill that would give small businesses across America the same basic option Federal employees have in the health benefit program.

That is a way to get small businesses into purchasing pools to lower their costs, to make sure their employees and the small businesses have the same benefits when it comes to health care coverage.

I encourage my colleagues on the other side of the aisle, we have to get beyond ''no.'' You have to get to a point where you work with us to try to change the status quo and bring about real health care reform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona

Mr. MCCAIN. Mr. President, it is my understanding we may move ahead shortly with debate and vote on an amendment by Senator BROWNBACK and a side-by-side vote on the same subject with Senator KERRY.

I believe Senator KERRY's amendment would be first. Hopefully, we can agree with that soon.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we are expecting that unanimous consent agreement can be propounded within the next few minutes so we can continue to press forward.

Mrs. HUTCHISON. Mr. President, I wish to ask the distinguished chairman and ranking member if there is going to be a quorum call, I ask unanimous consent that I speak until the agreement has been reached.

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

HEALTH CARE REFORM

Mrs. HUTCHISON. Mr. President, I wish to speak as in morning business on health care. It has been the topic of conversation while the Defense bill has been negotiated behind the scenes. I wished to talk about health care reform because it is the issue of the day. I think America is focusing on this issue now, and I am so glad they are because the more we learn about the proposals that are being made in the House and in the committees on the Senate side, the more concerns are being raised by the American people and by the experts who are studying the proposals.

What I am concerned about is the proposals that have been put forward from the Senate committee, and what is being put forward on the House side are proposals that are going to be the beginning of a government health care system that is modeled after Canada and Great Britain. What we are looking at is more government, more taxes, more expensive health care, and what we see less of is quality health care, less choice, less reimbursement to hospitals and Medicare and Medicaid; exactly the wrong direction.

We have hospitals all over my home State of Texas that treat indigent patients and patients who cannot pay.

Every one of our hospitals, rural and urban, gets extra help from Medicare and Medicaid for doing these services. The problem is that people go into the emergency rooms for primary care, care they could get from a doctor in a doctor's office if they had health care coverage. But they don't, so they wait until their diseases are much more progressed, and they go to an emergency room. What does that do? It makes the cost of health care higher for everyone. It makes the cost of health care continue to go up, and it raises premiums for people who have coverage. It costs taxpayers who have to pay for the emergency room care in the form of tax increases.

What we are looking at now is a proposal that will take money out of the hospitals. Every one of the hospitals in Texas will have lower reimbursements from Medicare and Medicaid, every one. That is estimated to cost more taxpayer dollars to cover the people who are going to the emergency room. Rural hospitals, particularly, may have to close their doors. I am hearing from rural hospital administrators that they don't have the money to absorb these cuts. They have a choice. They can cut services, or they can close hospitals—neither of which is an outcome any of us wants to see.

In addition, there are Medicaid requirements for States. Every Governor, Democratic or Republican, is saying: What are you thinking? More Federal mandates that are unfunded? That is why people are so frustrated with the Federal Government right now, more unfunded mandates. The estimate is that it would cost my home State of Texas $3 billion a year to absorb just the Medicaid unfunded mandate that is in the proposed bill making its way through Congress.

There has been an urgency. Many of the people on the floor here, as well as the President, are saying: We have a deadline. We have an August deadline, and we must pass this bill by August.

We are talking about a complete overturning of our health care system, not reform. Reform is what we all want. We need reform in our health care system. We need lower costs and more people covered. That is not what the bill going through Congress will do.

It is a complete upheaval of the health care system. It will be a single-payer government system that will start encroaching on and displacing the private health care people know and that provides the quality assurance we expect.

The private health care system will start being displaced by a big government system that will be cheaper but will also give fewer choices and less service. That is the concern so many people are beginning to have as more and more comes out about this health care plan.

In addition, there is an effort being made to pay for this big government takeover of health care. What are the options on the table? This is what is being proposed: that we will fine employers who do not offer private health care to their employees. That is like saying: OK, if you hire more people and you don't offer health care, your fines will go up. So that is going to discourage the hiring of people at a time when unemployment is at a record high. We should be encouraging people, especially in small business, to hire people. We want to create jobs, not cut them. Instead, we are going to increase taxes on small business. As much as 45 percent is being proposed on small business. That will make small business taxes higher than corporate taxes. Corporate taxes in America are among the highest in the world. Yet we are going to add on top of the 45 percent that the small businesses will pay, 35 percent for corporate. And then you fine the businesses that don't offer health care. It is almost as though we are in a self-fulfilling death wish. In the unemployment atmosphere in which we find ourselves, all of a sudden we are going to pass new taxes and new fines on small businesses which are the economic engine of America. It is small business that creates jobs, not big business, not government. Big business does some, but mostly it is small business growing that creates economic vitality. It is certainly not government.

When we get to bigger and bigger government, we are going to find ourselves in a spiral where half the people are working to support the other half of the population. It will go down from there.

It is important to read what the Mayo Clinic said about the House bill. They said:

> Although there are some positive provisions in the bill, the proposed legislation misses the opportunity to help create higher quality, more affordable health care for patients. In fact, it will do the opposite.

This is the Mayo Clinic, one of the premier health care providers in the country.

> In general, the proposals under discussion are not patient-focused or results-oriented. Lawmakers have failed to use a fundamental lever, a change in Medicare payment policy, to help drive necessary improvements in American health care.

The Mayo Clinic goes on:

> Unless legislators create payment systems that pay for good patient results at reasonable cost, the promise of transformation in American health care will wither. The real losers will be the citizens of the United States.

Today 40 percent of physicians turn away Medicaid patients because the system is poorly administered and has a weak record of reimbursement. We know that billions of taxpayer dollars are wasted on fraud and abuse in Medicare every year. Are we going to emulate a program that doctors are walking away from and that is costing billions of wasted dollars to the taxpayers?

This is not responsible governing. We need to take our time. Republicans have come forward and will continue to come forward with alternatives, alternatives that don't break the backs of taxpayers, that don't break the backs of small business people, that give the quality health care Americans have come to expect and should. We have alternatives that are responsible. Small business health plans, for one, would be the best approach to this, because more people being covered means lower cost for everyone.

What does every family in this country want? They want a job to support their families, and they want health care coverage for their children. We can give them that by giving affordable opportunities for small businesses to give health care coverage options to their employees. That is what Americans want. They don't want a big government health care system that is going to rob them of quality and cost them more in the meantime.

I appreciate the opportunity to talk today about this important issue and why we must take time to do this right. If we completely overturn our health care system, we may never be able to get it back. We may never be able to recover. We can do this right, if we take the time and if it is truly bipartisan, if Republicans will have a seat at the table. They didn't have a seat at the table when the Senate committee voted its bill out taking two Republican amendments out of 45 offered. That is not bipartisanship. That is being polite and saying no. What we want is to have real options that will keep the quality, keep the choice, keep the private sector employment in our system and give families a chance to have good jobs with health care coverage. We can do that, if we will get together on a bipartisan basis and go forward in a positive way.

The bills coming out of the House and Senate right now, with virtually no Republican input, are not right for America. That is why we are saying: Let's go back to the drawing board.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1761

Mr. LEVIN. I ask unanimous consent that the pending amendment be set aside so that I may call up an amendment.

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

Mr. LEVIN. On behalf of Senator KERRY, Senator LUGAR, and myself, I call up amendment No. 1761.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Michigan [Mr. LEVIN], for Mr. KERRY, for himself, Mr. LUGAR, Mr. LEVIN, and Mr. WEBB, proposes an amendment numbered 1761.

The amendment is as follows:

(Purpose: To express the sense of the Senate that the United States should fully enforce existing sanctions, and should explore additional sanctions, with respect to North Korea and to require a review to determine whether North Korea should be re-listed as a state sponsor of terrorism)

At the end of subtitle C of title XII, add the following:

SEC. 1232. SENSE OF THE SENATE ON ENFORCEMENT AND IMPOSITION OF SANCTIONS WITH RESPECT TO NORTH KOREA; REVIEW TO DETERMINE WHETHER NORTH KOREA SHOULD BE RE-LISTED AS A STATE SPONSOR OF TERRORISM.

(a) FINDINGS.—The Senate makes the following findings:

(1) On April 5, 2009, the Government of North Korea tested an intermediate range ballistic missile in violation of United Nations Security Council Resolutions 1695 (2006) and 1718 (2006).

(2) On April 5, 2009, President Barack Obama issued a statement on North Korea, stating that ''Preventing the proliferation of weapons of mass destruction and their means of delivery is a high priority for my administration'', and adding, ''North Korea has ignored its international obligations, rejected unequivocal calls for restraint, and further isolated itself from the community of nations''.

(3) On April 15, 2009, the Government of North Korea announced it was expelling international inspectors from its Yongbyon nuclear facility and ending its participation in the Six Party Talks for the Denuclearization of the Korean Peninsula.

(4) On May 25, 2009, the Government of North Korea conducted a second nuclear test, in disregard of United Nations Security Council Resolution 1718, which was issued in 2006 following the first such test and which demanded that North Korea not conduct any further nuclear tests or launches of a ballistic missile.

(5) The State Department's 2008 Human Rights Report on North Korea, issued on February 25, 2009, found that human rights conditions inside North Korea remained poor, prison conditions are harsh and life-threatening, and citizens were denied basic freedoms such as freedom of speech, press, assembly, religion, and association.

(6) Pursuant to section 102(b)(2)(E) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)(E)), President George W. Bush, on February 7, 2007, notified Congress that the United States Government would oppose the extension of any loan or financial or technical assistance to North Korea by any international financial institution and the prohibition on support for the extension of such loans or assistance remains in effect.

(7) On June 12, 2009, the United Nations Security Council passed Resolution 1874, condemning North Korea's nuclear test, imposing a sweeping embargo on all arms trade with North Korea, and requiring member states not to provide financial support or other financial services that could contribute to North Korea's nuclear-related or missile-related activities or other activities related to weapons of mass destruction.

(8) On July 15, 2009, the Sanctions Committee of the United Nations Security Council, pursuant to United Nations Security Council Resolution 1874, imposed a travel ban on five North Korean individuals and asset freezes on five more North Korean entities for their involvement in nuclear weapons and ballistic missile development programs, marking the first time the United Nations has imposed a travel ban on North Koreans.

(9) On June 10, 2008, the Government of North Korea issued a statement, subsequently conveyed directly to the United States Government, affirming that North Korea, ''will firmly maintain its consistent stand of opposing all forms of terrorism and any support to it and will fulfill its responsibility and duty in the struggle against terrorism.''.

(10) The June 10, 2008, statement by the Government of North Korea also pledged that North Korea would take ''active part in the international efforts to prevent substance, equipment and technology to be used for the production of nukes and biochemical and radioactive weapons from finding their ways to the terrorists and the organizations that support them''.

(11) On June 26, 2008, President George W. Bush certified that—

(A) the Government of North Korea had not provided any support for international terrorism during the preceding 6-month period; and

(B) the Government of North Korea had provided assurances that it will not support acts of international terrorism in the future.

(12) The President's June 26 certification concluded, based on all available information, that there was ''no credible evidence at this time of ongoing support by the DPRK for international terrorism'' and that ''there is no credible or sustained reporting at this time that supports allegations (including as cited in recent reports by the Congressional Research Service) that the DPRK has provided direct or witting support for Hezbollah, Tamil Tigers, or the Iranian Revolutionary Guard''.

(13) The State Department's Country Reports on Terrorism 2008, in a section on North Korea, state, ''The Democratic People's Republic of Korea (DPRK) was not known to have sponsored any terrorist acts since the bombing of a Korean Airlines flight in 1987.''.

(14) The Country Reports on Terrorism 2008 also state, ''A state that directs WMD resources to terrorists, or one from which enabling resources are clandestinely diverted, poses a grave WMD terrorism threat. Although terrorist organizations will continue to seek a WMD capability independent of state programs, the sophisticated WMD knowledge and resources of a state could enable a terrorist capability. State sponsors of terrorism and all nations that fail to live up to their international counterterrorism and nonproliferation obligations deserve greater scrutiny as potential facilitators of WMD terrorism.''.

(15) On October 11, 2008, the Secretary of State, pursuant to the President's certification, removed North Korea from its list of state sponsors of terrorism, on which North Korea had been placed in 1988.

(b) REPORT ON CONDUCT OF NORTH KOREA.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report examining the conduct of the Government of North Korea since June 26, 2008, based on all available information, to determine whether North Korea meets the statutory criteria for listing as a state sponsor of terrorism. The report shall—

(1) present any credible evidence of support by the Government of North Korea for acts of terrorism, terrorists, or terrorist organizations;

(2) examine what steps the Government of North Korea has taken to fulfill its June 10, 2008, pledge to prevent weapons of mass destruction from falling into the hands of terrorists; and

(3) assess the effectiveness of re-listing North Korea as a state sponsor of terrorism as a tool to accomplish the objectives of the United States with respect to North Korea, including completely eliminating North Korea's nuclear weapons programs, preventing North Korean proliferation of weapons of mass destruction, and encouraging North Korea to abide by international norms with respect to human rights.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should—

(A) vigorously enforce United Nations Security Council Resolutions 1718 (2006) and 1874 (2009) and other sanctions in place with respect to North Korea under United States law;

(B) urge all member states of the United Nations to fully implement the sanctions imposed by United Nations Security Council Resolutions 1718 and 1874; and

(C) explore the imposition of additional unilateral and multilateral sanctions against North Korea in furtherance of United States national security;

(2) the conduct of North Korea constitutes a threat to the northeast Asian region and to international peace and security;

(3) if the United States determines that the Government of North Korea has provided assistance to terrorists or engaged in state sponsored acts of terrorism, the Secretary of State should immediately list North Korea as a state sponsor of terrorism; and

(4) if the United States determines that the Government of North Korea has failed to fulfill its June 10, 2008, pledges, the Secretary of State should immediately list North Korea as a state sponsor of terrorism.

(d) STATE SPONSOR OF TERRORISM DEFINED.—For purposes of this section, the term ''state sponsor of terrorism'' means a country that has repeatedly provided support for acts of international terrorism for purposes of—

(1) section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.));

(2) section 40 of the Arms Export Control Act (22 U.S.C. 2780); or

(3) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

Mr. LEVIN. I ask unanimous consent that amendment Nos. 1761 and 1597 be debated concurrently for up to 30 minutes, with the time equally divided and controlled between Senators KERRY and BROWNBACK or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to amendment No. 1761, to be followed by a vote in relation to No. 1597; that no amendment be in order to either amendment; that prior to the second vote there be 2 minutes of debate divided as provided above.

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

The Senator from Massachusetts.

Mr. KERRY. Mr. President, in addition to Senator LUGAR and Senator LEVIN, I believe Senator WEBB is also an original cosponsor of this amendment. I believe this amendment is a responsible alternative to the amendment offered by Senator BROWNBACK. This amendment appropriately takes note of and condemns North Korea's recent behavior as a threat to the northeast Asian region and to international peace and security. But in contrast to the Brownback amendment, which expresses the sense of the Senate that North Korea should immediately be relisted as a state sponsor of terrorism, the Kerry-Lugar-Levin-Webb amendment requires something to happen, not just a sense of the Senate that there might be a relisting. It mandates a report, a formal report, to be completed within 30 days, examining North Korea's conduct since it was removed from the terrorism list last June, including the evaluation of any evidence that North Korea has engaged in acts of terrorism or provided support for acts of terrorism or terrorist organizations.

One of the reasons for requiring that is that in the Brownback amendment on page 3, section 9, line 21, it says:

> There have been recent credible reports that North Korea has provided support to the terrorist group Hezbollah, including providing ballistic missile components and personnel to train members of Hezbollah . . .

Let me state unequivocally to my colleagues in the Senate: The most recent intelligence assessments of our intelligence community simply do not sustain this charge. In fact, President Bush specifically refuted that charge because it was an old one, and he refuted it last year. It would be the height of irresponsibility for the Senate to pass an amendment based on a finding that is false. It is important to have a report to the Senate that requires us to evaluate, that would have the administration submit to us precisely what the situation is.

The report will also assess the effectiveness of relisting North Korea as a state sponsor of terrorism for achieving our national security objectives; namely, completely eliminating North Korea's nuclear weapons programs, preventing North Korean proliferation of weapons of mass destruction, and encouraging North Korea to abide by international norms with respect to human rights.

Our amendment then expresses the sense of the Senate that if the United States finds that North Korea has, in fact—that we would know this within these 30 days—provided support for terrorism, then the Secretary of State should immediately relist North Korea as a state sponsor of terrorism.

It also expresses the sense of the Senate that the United States should vigorously enforce all existing unilateral and multilateral sanctions and consider the imposition of additional sanctions if necessary to achieve the policy goals with respect to North Korea.

I believe it is an important, realistic amendment. I think it is tougher because it mandates some things specific, and it rightly condemns North Korea, as we have.

Let me emphasize, the United States, this administration, has fully and rightly condemned North Korea's launch of ballistic missiles and its test of a nuclear weapon on May 25, 2009. We have led a strong international response to those provocations, and we succeeded in winning unanimous support from the United Nations for U.N. Security Council Resolution 1874, imposing sweeping new sanctions against North Korea. The sanctions mandated under the U.N. Security Council Resolution 1874 include not only a comprehensive arms embargo but also robust new financial sanctions on North Korean trading companies, and visa restrictions on North Korean officials engaged in the proliferation of weapons of mass destruction.

These sanctions have teeth. They are multilateral. And they are having an impact. A North Korean cargo ship suspected of carrying arms to Burma turned around after it was denied bunkering services in Singapore. The Government of Burma joined with us, and the government itself warned that the ship would have to be inspected on arrival in order to ensure that it did not have munitions onboard. The sanctions have had a bite. They are working.

As strong as those measures have been, additional measures may be necessary, and this report will help us to evaluate that. But additional steps, including the relisting of North Korea as a state sponsor of terrorism, ought to be based on a careful examination of the facts—that is how we ought to do things in the Senate—and an assessment of whether those sanctions are going to advance our interests. That is precisely what the Kerry-Lugar-Levin-Webb amendment mandates, and that is why it is actually a better sanctions policy than the alternative Brownback amendment.

Let me add one last word. We are currently deeply concerned about the fate of two American journalists currently under detention in North Korea. The administration is engaged right now in sensitive discussions with the North Korean Government attempting to secure the immediate release of these two American citizens. For the Senate to suggest—on something we already know is factually incorrect but out of emotion and otherwise—that North Korea ought to be returned to the list of state sponsors of terrorism without regard to whether they have, in fact, engaged in acts of terrorism or provided support to terrorist organizations would be irresponsible with respect to those particular efforts and otherwise at this time.

We ought to proceed according to facts. We ought to proceed in ways that best advance the interests of our country.

Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, thank you very much. I appreciate the chance to debate this issue with my colleague, the distinguished Senator from Massachusetts.

I find it very interesting to hear the statement that the sanctions are working. I am trying to think of how they are working at all. They are working to prevent North Korea from detonating another nuclear weapon? That did not quite work. We got another one of those. They are working to prevent them from launching more missiles? Well, that one did not quite work. They are working to prevent North Korea from taking Americans hostage? Well, that one did not quite work.

I am trying to think how these sanctions are working. And if they are so great on an international basis, why aren't we doing them on a domestic basis, for us toward North Korea? I am having difficulty. Maybe they are working for us to prevent North Korea from associating with the military junta in Myanmar. Wait a minute, that was in the news yesterday, that North Korea is working to provide the military junta in Myanmar with weapons and possibly nuclear weapons that the Secretary of State, Secretary Clinton, is talking about now happening. Well, maybe it prevented—well, I guess it did not quite prevent that.

I am trying to figure out how the sanctions have worked at all. I thought it was a mistake when the Bush administration delisted them from the terrorist list in a negotiation of the six-party talks and said: OK, we will do this, and they do that, and then ended up doing nothing and, indeed, stepped up what they are doing more and more.

It seems to me very strange to suggest that the sanctions are working. I respect my colleague from Massachusetts. He is a strong chairman of the Foreign Relations Committee. I do not see where they have worked at all. I would ask my colleagues to examine: Do they believe that the sanctions to date have worked toward North Korea from the United States? And when you examine the factual setting here, you have to go: I don't think so. I don't think these have happened.

Plus, I am very concerned that the administration now is taking the tack of discussing an additional set of incentives to the North Korean regime to try to get them from proliferating further. This is an interesting, hot-off-the-press article from yesterday: ''Obama Administration Preparing Incentives Package for North Korea.''

Mr. President, I ask unanimous consent that the article be printed in the RECORD after my full statement.

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

(See exhibit 1.)

Mr. BROWNBACK. Reading from this article:

> The Obama administration is consulting with allies on a new ''comprehensive package'' of incentives—

Not sanctions; incentives—

> aimed at persuading North Korea to abandon its nuclear programs, senior U.S. officials confirmed Tuesday.

> The officials, who were traveling with Secretary of State Hillary Clinton in Thailand, told reporters that the package is only in its early stages and will not be offered to North Korea unless and until the allies sign off on it. Pyongyang would also have to first take specific, concrete and ''irreversible'' steps to begin destroying its arsenal of nuclear weapons.

This is the third round of us giving incentives to North Korea not to develop nuclear weapons. It has not worked in the past. It is not going to work now. Why on Earth would we do something like this?

The Kerry amendment calls for a study. Studies are fine. But it actually delays the study that the State Department has already promised to me: that by the end of this month they will have a study out as to whether they are proliferating further weapons, that they should be listed as a terrorist state.

The Kerry amendment says: 30 days after the enactment of this bill. Even if the bill gets through the floor this week, it has to go to conference, and it has to come back in front of this body. You are looking, probably, at October, maybe early November, that this actually comes back—this law—and then 30 days after that the report has to be issued. So we are looking at somewhere, maybe November, December, for the report taking place, when the State Department has already told me they will have their report out by the end of July. So this is actually slowing down the process, if we adopt this amendment.

And it calls for a report. I am sure Pyongyang is very concerned about this report. But I do not think it is going to change any of the behavior that is taking place. If we do not have a strong answer, as a matter of fact, it is probably going to urge them to do something even further.

My colleagues are saying: Well, OK, you are being irresponsible in this statement on this narrow category of whether they are doing anything with Hezbollah. It is a bipartisan amendment that I put forward with Senator BAYH, who wanted that provision in it.

There is a current CRS report that talks about North Korea supporting Hezbollah, building bunkers, and supporting and helping that out. That is a current factual setting, and my colleague on the other side of the aisle, Senator BAYH, has asked and pushed that this be in the overall bill.

I would ask my colleagues to look at this interesting definition of ''international terrorism,'' as shown on this chart. This is a definition that is in U.S. statute on international terrorism. It appears to be written for North Korea and North Korea in mind.

It defines the term under (1)(A), and then under (B)—these are in the alternative—(B) ''appear to be intended''—the actions of ''international terrorism'' ''appear to be intended to intimidate or coerce a civilian population''—that is what North Korea does and Kim Jong Il's regime does—''to influence the policy of a government by

intimidation or coercion''—that is the flying of missiles over Japan, that is the intimidation toward South Korea or the United States—''to affect the conduct of a government by mass destruction, assassination, or kidnapping''—they have done kidnappings of Japanese citizens—''to affect the conduct of a government''—clearly trying to affect our conduct—(C) ''occur primarily outside the territorial jurisdiction of the United States.'' This is what North Korea is doing.

I would further point out to my colleagues that this is a sense of the Senate. As to the Kerry amendment, with all due respect toward Senator KERRY, this is asking the administration to do a report and asking and directing the administration to take some steps. Ours is a sense of the Senate as to what the Senate thinks, and it is saying that the Senate believes North Korea should be relisted as a state sponsor of terrorism.

I would ask my colleagues, in a commonsense review of what North Korea has done recently: Don't you think they qualify or, if they do not, what country in the world would qualify as a state sponsor of terrorism if North Korea does not, with what it has done, what it has done personally, what it has conducted with other countries, with Syria, with Myanmar, with these other rogue groups?

It is a sense of the Senate to state we believe North Korea is a state sponsor of terrorism. It is bipartisan with Senator BAYH and myself. It has a number of cosponsors on it. It actually would be productive for us to say to North Korea, in a public way, we believe they are acting like state sponsors of terrorism. I believe it would be actually counterproductive if this body were to say we think it should be studied and a report issued. That is not going to be the sort of strong action that would be understood at all by the government in Pyongyang at this point in time.

With that, I would urge my colleagues to look at the Brownback-Bayh amendment, to support it on its very sensible grounds—it is a sense of the Senate—and to vote for the amendment.

With that, Mr. President, I yield the floor and reserve the remainder of our time.

EXHIBIT 1

[From FOXNews.com, July 21, 2009]

OBAMA ADMINISTRATION PREPARING INCENTIVES PACKAGE FOR NORTH KOREA

(By James Rosen)

BANGKOK.—The Obama administration is consulting with allies on a new ''comprehensive package'' of incentives aimed at persuading North Korea to abandon its nuclear programs, senior U.S. officials confirmed Tuesday.

The officials, who are traveling with Secretary of State Hillary Clinton in Thailand, told reporters that the package is only in its early stages and will not be offered to North Korea unless and until the allies sign off on it. Pyongyang would also have to first take specific, concrete and ''irreversible'' steps to begin destroying its arsenal of nuclear weapons.

The aides said that the administration needs to see concrete action. Mere assurances from North Korea that it will take action in the future would not be enough to trigger the presentation of the incentives package, they said.

The United States, though, has not yet conveyed to the North Koreans what the ''irreversible'' steps might entail, as Washington continues discussions with its allies in the so-called Six Party Talks.

The aides, who work on North Korea policy for three separate agencies in the U.S. government, portrayed the development of the new package as the second track of a two-track approach.

The first track consists of continued aggressive enforcement, also in conjunction with other nations across the globe, of U.N. Security Council Resolution 1874—which gives U.N. member states increased authority to interdict the flow of weapons and possible nuclear material in and out of North Korea.

The aides made clear they expect the two-track approach to remain in place for the foreseeable future.

''This is not going to be resolved in a couple of weeks,'' one official said. ''This could be a sustained, substantial effort that could go on quite a long time.''

The package of incentives would include some elements that are ''familiar'' from the Six-Party talks, the officials said, as well as new ones and some that differ in their ''dimensions.''

The United States, China, Japan, South Korea and Russia are the other participants in the long-running—and long-stalled—Six-Party Talks aimed at persuading North Korea to abandon its nuclear programs.

The emphasis on consultation with these other countries derives, the officials said, from the perception among some of them that the Bush administration did not adequately confer with them prior to the removal of North Korea from Washington's list of state sponsors of terrorism last year.

''The Japanese do have anxieties about engagement of North Korea,'' one official said.

The officials also echoed the ''growing concerns'' about reports of a military relationship between North Korea and Burma that Clinton voiced earlier Tuesday in a news conference with Thailand's deputy prime minister.

''It would be destabilizing for the region'' if such reports were true, Clinton said, adding, ''It would pose a direct threat to Burma's neighbors. And it is something, as a treaty ally of Thailand, that we are taking very seriously.''

Briefing reporters after Clinton's news conference, the senior officials said their concerns range from suspicions that North Korea is supplying small arms to Burma to reports of possible nuclear collaboration between the two countries. Pressed on the nuclear question, the officials refused to discuss classified intelligence data but noted North Korea's history of proliferation with Syria. One aide said the possibility of nuclear collaboration between Pyongyang and Burma is ''one of those areas that we would like to know more about.''

To that end, U.S. intelligence agencies are studying recently published photographs purporting to show an elaborate set of underground tunnels that North Korea has built along Burma's border with Thailand. The officials said they see ''some similarities'' between the tunnels in the photographs and a network of underground tunnels in North Korea, the existence of which the United States learned about in the 1990s.

Both North Korea and Burma, a repressive military dictatorship whose leaders have renamed the country Myanmar, have been the target of broad sanctions by successive U.S. administrations over the last decade.

Clinton said Tuesday she would like to see Washington develop a ''more productive'' relationship with Burma, starting with steps by the government to release political prisoners and dissidents jailed there.

''We are very much engaged with partners such as Thailand and others in assessing and determining not only what is going inside of Burma but also what we can do effectively to change the direction and behavior of the Burmese leadership,'' Clinton said.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield myself such time as I will use, and I will be very brief.

The Senator from Kansas just cited the Congressional Research Service report in his statement about Hezbollah. I am reading from a memorandum from the President of the United States. This is the Presidential report, certification, when he lifted the designation of North Korea. And he wrote—this is from the President—

> Our review of intelligence community assessments indicates there is no credible or sustained reporting at this time that supports allegations (including as cited in recent reports by the Congressional Research Service) that the DPRK has provided direct or witting support for Hezbollah, Tamil Tigers, or the Iranian Revolutionary Guard. Should we obtain credible evidence of current DPRK support for international terrorism at any time in the future, the Secretary could again designate the DPRK a state sponsor of terrorism.

We have not received that evidence. We specifically request it. And contrary to what the Senator just said, this does not delay the report. It says: not later than 30 days after the passage. The report can come next week. The report can come in answer to the Senator's request. We would ask for that.

Let's be accurate in this designation. The President of the United States said there is no credible evidence. And there is none to this date. Our report asks for whether any currently exists. That is the way the Senate ought to behave with respect to serious matters such as this.

Mr. President, I yield the remainder of the time to the distinguished chairman of the committee.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the language in the Kerry amendment does one other thing relative to this report. It says if the United States determines that the Government of North Korea has indeed engaged in terrorist activities, then the Secretary of State shall ''immediately list North Korea as a state sponsor of terrorism.'' So it requires a report in not more than 30 days. That could come at any time. But it also requires action if the Secretary of State makes the finding.

The last administration, the Bush administration, delisted North Korea. They found there was no credible evidence of state-supported terrorism. We are a government of laws. Our laws

provide for a listing of countries that engage in terrorist activities or support terrorist activities. It does not provide for a listing of countries that, no matter all of the other things they do which are so wrong, so bad, so objectionable to the international community, so justifiably producing sanctions and other kinds of diplomatic actions against them—regardless of those activities, unless they are a supporter of terrorist acts, our laws do not provide that they be put on the terrorist list. That is our law. That is what the Bush administration was applying when they delisted North Korea.

North Korea is a country which engages in horrendous activities. That is not the issue. I don't know of anybody in this Senate who does not believe North Korea engages in repressive, authoritarian activities. I don't know of anybody in this Senate who does not believe the North Korean leadership is reprehensible in the way it treats its citizens. There is a long list of actions on the part of North Korea in terms of its pursuit of ballistic missiles, provocative actions it has taken of the testing of nuclear devices, firing a series of missiles. It has clearly solidified its status as a pariah of the region and of the international community at large.

So the question isn't whether strong action should be taken. We should take strong action which will be effective against the government—not the people but the government—of North Korea. The Kerry amendment lays out a course of action, exploring additional sanctions so that we can put additional power and leverage against the Government of North Korea, as well as requiring our administration to consider whether the Government of North Korea should be listed again. And if so, if they find that under our law there is reason to put it back on the terrorist list, then they must, under the Kerry amendment, take that step.

What the Kerry amendment avoids doing is what the Brownback amendment does in one part of the Brownback amendment, which is saying that the Government of North Korea should be on a list of terrorist states when the last thing we have heard from an American administration was from the Bush administration taking the North Korean Government off the list because they could not find credible evidence that the government took actions which would require it being placed on the list of terrorist states.

So again, it seems to me that clearly our goals here are similar. I had hoped we might be able to reach a consensus on common language, but so long as this body expresses itself very strongly, as the Kerry and Lugar amendment does, it seems to me we will then have made an important statement to the Government of North Korea and at the same time avoided taking a step which our laws do not provide for.

One of our arguments with North Korea is that they are lawless, they are a totalitarian government. Our government is a government of laws. We have a law that provides for the listing of countries that support terrorist acts. The administration, after a long assessment, concluded there was no credible evidence that North Korea engaged in the activities which appropriately required it or appropriately permitted it to be listed on the terrorist state list and therefore removed it from that list. That is the last action by the administration.

By the way, being on that terrorist list did not change the actions or the activities of the Government of North Korea, in any event. I very much support that terrorist list. I very much support it being kept up to date and being used appropriately. But I don't think we should in any way kid ourselves as to whether being on that list is going to change the activities of North Korea.

We need other countries to support us in putting maximum pressure on North Korea. When we act lawfully—when we put sanctions on North Korea, working with other countries, we are acting lawfully. If we do not abide by our own law which defines when a country will go on a terrorist list, we are setting the wrong example for the world, and it makes it more difficult for us to obtain the kind of support from other countries which we deserve in going after the abominable activities of the Government of North Korea.

I don't know whether our side has any time left, but if we do, I reserve the remainder of our time.

The PRESIDING OFFICER (Mr. BURRIS). The time has expired.

The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent to ask several questions of the Senator from Kansas.

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

Mr. MCCAIN. Mr. President, has the Senator from Kansas detected any change in North Korean behavior since the imposition of sanctions by the United Nations?

Mr. BROWNBACK. Yes. They have taken more provocative actions rather than less provocative actions since the imposition of the U.S. sanctions, if not more.

Mr. MCCAIN. Including launching missiles on the Fourth of July.

Mr. BROWNBACK. It is a strange day they would pick, the Fourth of July, but they did.

Mr. MCCAIN. Isn't it true that there is evidence that North Koreans were involved in the construction of a nuclear facility in Syria which the Israelis felt was enough of a threat to their national security that they destroyed it?

Mr. BROWNBACK. Absolutely, abundant evidence, and it was amazing how quiet the world community was for a long period of time, because I guess they didn't want it known that the North Koreans did built that facility or that it was in Syria.

Mr. MCCAIN. Isn't it true that there is a published news report that North Korea and Iran have worked together in the development of nuclear weapons and nuclear technology, and if Iran acquires that capability, it certainly ratchets up the tensions between Iran and Israel?

Mr. BROWNBACK. Published reports, and the missile technology the Iranians use is built off of the No-dong system of the North Koreans.

Mr. MCCAIN. The latest information in the last few days is that there is cooperation between North Korea and Myanmar, better known to some of us as Burma, one of the real rogue nations of the world.

Mr. BROWNBACK. There is.

Mr. MCCAIN. So if that North Korean ship, which was shadowed for a period of time by the U.S. Navy, had gone into port in Myanmar, do you think there is any likelihood the Government of Myanmar would have complied with the U.N. resolution that required that ship to be inspected by ''port authorities''?

Mr. BROWNBACK. Myanmar has not cooperated with anything the United Nations has directed to date. I don't know why they would cooperate with anything such as that.

Mr. MCCAIN. I thank the Senator. Of course, maybe North Korea, when we look at it with a very fine definition of terrorism—from the recent Washington Post article about 200,000 people in the most horrible prison conditions in the world perhaps would argue that we should do whatever we can—short, obviously, of any military action—to try to see that the North Korean regime acts at least in some civilized fashion.

Mr. BROWNBACK. I think they should.

Mr. President, I would point out, if I could, to my colleagues as well—if I could have the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. I am frustrated on this topic. I would presume the chairman—I know the chairman of the Foreign Relations Committee is frustrated, along with the chairman of the Armed Services Committee. I have worked too long with the refugees and the people in the gulag and people trying to get out of North Korea for us to now back up and say: OK, we want a report. These folks are dying. They are in a gulag the likes of which was in the Soviet era. This has been published and it is all available to us and we want a report. I understand people don't want to go this far, but this is very frustrating. If you were in one of those situations—and people track what comes out of the Senate, just as in the Soviet gulag they tracked what came out of here then—it would be like saying to them: Well, we are not that concerned about you; whereas, if we take strong action such as what I am saying, it does give them hope. That is what I am

asking us to do. I think it is very responsible, and it is a sense of the Senate, what we are asking them to do. That is what is at the root of this.

The chairman of the Armed Services Committee says: Well, they were delisted by the last administration. And they certainly were, but they were not removed from that list because they stopped sponsoring terrorism. The regime was delisted in order to entice them to dismantle their weapons of mass destruction program. It was a six-party talk negotiation, and that didn't work, just as the prior negotiations on weapons of mass destruction didn't work. Why should we continue the problem if that is the case?

Mr. KERRY. Would the Senator yield for a question?

Mr. BROWNBACK. I am happy to yield for a question.

Mr. KERRY. Is the Senator suggesting that the President of the United States in his letter of certification misinformed the American people and the Senate?

Mr. BROWNBACK. What I am suggesting is that this was part of a negotiation and that they have wide latitude. In fact, if I may continue my answer for my colleague who has asked a very pertinent question on this issue and who is very familiar with the six-party talks, as I am partially, somewhat familiar with the six-party talks, these have been talks going on for a long period of time. The North Koreans hate being listed as a state sponsor of terrorism. Their big push was to be delisted. The administration has broad authority. It has broad abilities to be able to interpret this, and they said: OK, we are going to be able to do this, and we will find some room in here to interpret it this way, in exchange for you guys stopping your weapons of mass destruction, which did not happen.

I am saying that what we should do now is not continue with that mistake. What I am saying we should do now is, let's call a spade a spade in this situation. This is a terrorist nation. The Senator from Massachusetts knows that. He knows what is taking place and what they are doing. They are one of the lead sponsors of terrorist activities in arming, bad, rogue regimes around the world, and the Senator knows that. What we should do is call that what it is in this Senate and not call for just a report.

Mr. KERRY. Mr. President, if the Senator will further yield, does the Senator from Kansas believe this language:

> Our review of intelligence community assessments indicates there is no credible or sustained reporting at this time that supports allegations they have provided direct support—

Et cetera—

> and should we have credible evidence of international terrorism at any time in the future—

The President clearly——

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

All time has expired.

Mr. KERRY. Mr. President, I ask for the yeas and nays on amendment No. 1761.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays are ordered.

Mr. BROWNBACK. Mr. President, I have a parliamentary inquiry, if I could. Have the yeas and nays been ordered on both amendments?

The PRESIDING OFFICER. The yeas and nays have been ordered on amendment No. 1761.

The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays are ordered on both amendments.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1761.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 66, nays 31, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—66

Akaka	Franken	Murkowski
Alexander	Gillibrand	Murray
Baucus	Grassley	Nelson (NE)
Bayh	Gregg	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown	Kaufman	Sanders
Burris	Kerry	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Snowe
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Collins	Leahy	Tester
Conrad	Levin	Udall (CO)
Corker	Lieberman	Udall (NM)
Dodd	Lincoln	Voinovich
Dorgan	Lugar	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden

NAYS—31

Barrasso	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Thune
Coburn	Isakson	Vitter
Cochran	Johanns	Wicker
Cornyn	Kyl	
Crapo	Martinez	

NOT VOTING—3

Byrd	Kennedy	Mikulski

The amendment (No. 1761) was agreed to.

Mr. KERRY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1597

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1597, offered by the Senator from Kansas. Who yields time?

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask for an ''aye'' vote on this amendment even if people voted for the Kerry amendment. It was critically important during the Soviet gulag days that the people in the gulags knew we cared and that we were focused on them. If we vote to say we are going to issue a report, that is fine. But it doesn't say much to people in a gulag. If we vote to say it is the sense of the Senate that North Korea is a state sponsor of terrorism, it is a strong message. It gives hope to people who don't have hope today.

Who in this body doubts that North Korea is a state sponsor of terrorism? With nuclear weapons, missiles being launched, a connection with Myanmar—with all these things taking place today, who can doubt that they are a terrorist country?

I urge my colleagues, even those who supported the Kerry amendment, to also vote for this one to send the message that North Korea is a state sponsor of terrorism and to send a message of hope to those in the North Korean gulags.

I yield back my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, it would be both inconsistent and inappropriate to vote aye on both amendments for a couple of reasons. First of all, the amendment we just passed with 66 votes mandates that no later than 30 days after this is passed—it could happen next week, in 3 weeks—we are mandating the report from the administration with respect to whether there is evidence at this time of North Korea actually aiding or abetting or being a terrorist state.

The most recent finding of the intelligence community says no. The President of the United States, George Bush, certified to us when he decertified them as a terrorist state that they were not engaged in any activities of aiding and abetting terrorism at that time in the world. There is no evidence within the intelligence community at this moment in time that says so.

The Brownback amendment states that there is. So it is wrong, and it would be inappropriate for the Senate to base designating North Korea as a terrorist state on findings that do not exist, as well as doing so at a time when we are negotiating to get the release of two young journalists. This would be a completely inappropriate measure by the Senate at this time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1597. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LEVIN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, after the conclusion of this vote, is there any pending amendment?

The PRESIDING OFFICER. There will not be.

Mr. LEVIN. Mr. President, to let folks know, I intend to ask for a quorum call immediately following this vote to try to work out an orderly way to proceed on amendments.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 43, nays 54, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—43

Alexander	Ensign	McConnell
Barrasso	Enzi	Murkowski
Bayh	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bond	Gregg	Risch
Brownback	Hatch	Roberts
Bunning	Hutchison	Sessions
Burr	Inhofe	Shelby
Chambliss	Isakson	Snowe
Coburn	Johanns	Thune
Cochran	Kyl	Vitter
Collins	Lieberman	Voinovich
Cornyn	Lincoln	Wicker
Crapo	Martinez	
DeMint	McCain	

NAYS—54

Akaka	Feinstein	Merkley
Baucus	Franken	Murray
Begich	Gillibrand	Pryor
Bennet	Hagan	Reed
Bingaman	Harkin	Reid
Boxer	Inouye	Rockefeller
Brown	Johnson	Sanders
Burris	Kaufman	Schumer
Cantwell	Kerry	Shaheen
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Landrieu	Tester
Conrad	Lautenberg	Udall (CO)
Corker	Leahy	Udall (NM)
Dodd	Levin	Warner
Dorgan	Lugar	Webb
Durbin	McCaskill	Whitehouse
Feingold	Menendez	Wyden

NOT VOTING—3

Byrd	Kennedy	Mikulski

The amendment (No. 1597) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I ask unanimous consent that, first, there be a period of morning business of 5 minutes, so Senator BROWN can speak as in morning business. Then we proceed to consideration of the amendment of Senator CARDIN, amendment No. 1763. After the disposition of that amendment, that the Senator Kyl amendment, No. 1760, be in order. There may or may not be a second-degree amendment to that of Senator KYL—that it be in order if there is a second-degree amendment. After the disposition of the amendment of Senator KYL and the second-degree amendment thereto, we then proceed—presumably it would be in the morning—to an amendment by Senator LIEBERMAN, No. 1744, with a 1-hour time agreement and a side-by-side amendment or a second-degree amendment of Senator BAYH relative to the—relevant to the Lieberman amendment, which would also have a 1-hour time agreement.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, reserving the right to object and I will not object, I say in the case of the amendment of Senator CARDIN, there is no objection on this side. We would be glad to agree to a 15-minute time agreement, if that is agreeable.

Mr. LEVIN. That presumably might be adopted without a rollcall as well.

Mr. President, let me revise my unanimous consent request for Senator CARDIN's amendment having a 15-minute time agreement, that there not be a time agreement set yet on the Lieberman amendment No. 1744 and the Bayh second-degree amendment or side-by-side amendment to it because apparently we could not get that, for some reason I don't understand or know. I don't understand the reason or the objection.

One other correction. The Cardin amendment is No. 1475, not No. 1763.

Mr. SESSIONS. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I wonder, I know the bill managers have many challenges, but I wonder if they contemplate that I would have the opportunity to call up Sessions amendments Nos. 1657 and 1533 before we go too far in this process.

Mr. LEVIN. There are a number of people who have asked to be put in line at this point. We have been unable to go beyond where we are. That took enough time. We thought, if we went any further, it would be impossible to get this unanimous consent done because there are many people who are in the same position as our friend from Alabama.

Mr. SESSIONS. I am not delaying, of course. We want to see this bill move forward. But I do have two amendments I care about. Maybe I can talk to the chairman in a little bit. I thank him for his courtesy. I will not object.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. In response to the Senator from Alabama, I will do everything I can to get his amendment in order. Senator ISAKSON and Senator BURR and Senator BOND and others have all come up and said they want their amendments in line. I think we have to have some kind of consultation on our side to establish a priority.

I also would like to point out, the amendment of Senator SESSIONS, I believe, is on missile defense, a very important amendment.

I also think, in full disclosure, the majority leader, I am told, will file cloture tonight, which will then, at some point, rule out nongermane amendments. But I will do everything I can to get Senator SESSIONS' amendment up, in order. But we have been following a process, as I am sure the Senator from Alabama knows, of one side's amendment and then the other side's amendment, going back and forth.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. The missile defense amendment is one that is a sense-of-the-Senate amendment that Senator LIEBERMAN is offering now. That was not the two I referred to. I agree with Senator MCCAIN that sense of the Senate definitely needs a vote. It is an important issue.

The other two amendments I have I hope also can be considered. I will be pleased to talk with the Senator and his staff about it.

The PRESIDING OFFICER. Is there an objection to the request? Without objection, it is so ordered.

Mr. LEVIN. I thank the Presiding Officer and thank Senator SESSIONS as well. As I understand it, the amendments Senator SESSIONS was referring to were amendments relating to al-Qaida; am I correct?

Mr. SESSIONS. That is correct.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

HEALTH CARE REFORM

Mr. BROWN. Mr. President, the progress of this country does not and has not come easily. Passage of the Civil Rights Act was not easy. Passage of the Voting Rights Act was not easy. Passage of the Social Security Act was not easy. The Fair Housing Act, that was not easy. Passage of Medicare and Medicaid was not easy.

This year, passage of health care reform will not be easy. Time and time again, decade after decade, special interests—the drug companies, the insurance companies, medical interests—have delayed and denied and destroyed meaningful health care reform.

In recent weeks and months, opponents have ramped up their efforts to derail health care reform, saying you have to slow down but, as with other historic legislative victories, we must find a path forward.

Last week, the Senate Health, Education, Labor, and Pensions Committee found a path forward that works for American families and businesses.

The HELP health reform legislation is designed to lower costs, provide more coverage choices, and ensure that Americans have insurance they can count on.

This legislation would give every American access to quality, affordable, and flexible health insurance.

This legislation would reduce costs by decreasing fraud, abuse, and medical errors while promoting best practices and prevention and wellness initiatives.

It would provide insurance security for people who lose their job, their coverage, or maybe their patience with an insurer who has let them down.

And, this legislation gives Americans more health care choices.

The public option in our legislation—the Community Health Insurance Option—is a national insurance program modeled after coverage offered to Members of Congress.

A strong public option would ensure Americans in every State have insurance choices they can trust.

It would increase price competition in the health insurance market to drive premiums down.

And a strong public option would set a standard for quality coverage that gives private insurers a benchmark and Americans new options.

Let's face it. There is nothing like good old fashioned competition to keep insurers honest.

Under our bill, no longer would insurers be able to hide behind preexisting conditions, health history, age, gender, or race to deny coverage and delay care for patients.

Done right, health reform represents a real opportunity to expand access to quality, affordable coverage for all Americans, like Robert and Carol of Bryan, OH, in Williams County, northwest Ohio.

Carol is a social worker who works for a nonprofit drug, alcohol, and mental health agency. Her husband Robert, a self employed barber, had his first bout with cancer in 2003 and is facing, just days from now, another cancer surgery.

Robert and Carol wrote to me that they depleted their life savings to cover cancer treatments and maintain coverage to monitor cancer remission.

Carol wants Members in this Body to let her husband fight for his life, not fight with insurance companies.

Joseph, in Summit County, operates a small land surveying business that is struggling to pay health insurance premiums.

After being diagnosed with multiple sclerosis in 2004, Joseph wrote to me that it is impossible for his business to shop around for more affordable health coverage because of his preexisting condition.

The HELP Committee's Affordable Health Choices Act represents a victory for the millions of American families and business owners, like Joseph, whose health care costs have soared out of control.

It is a victory for the 46 million uninsured Americans and millions more underinsured, those whose financial security is at risk day in and day out because of health care costs.

And it is a victory for U.S. taxpayers.

If we are going to get a grip on health spending, we have got to squeeze out waste, needless redtape, and costly medical errors.

We have to give private insurers a reason to charge reasonable premiums, not grossly inflated ones.

I am proud that the President is touring the Cleveland Clinic tomorrow.

Cutting edge health systems like the Cleveland Clinic University Hospitals, and the Metro Health System all in Cleveland, have helped to give Ohio its reputation as a leader in high quality health care.

Our work will not be done until Ohioans like 73-year-old Bert from Allen County can afford the retirement he deserves.

Bert wrote to me that he cannot afford to retire, despite suffering a heart attack last year.

He described how exorbitant prescription drug costs leave the unacceptable choice between his medication or his wife's medication. But not both.

Bert wrote to me, ''God help us should anything happen to my wife medically. We will, no doubt, lose everything we have worked all of our lives for.''

Our work cannot be done until Bert, Joseph, Robert, and Carol, and every American live in a Nation with an affordable, effective, and inclusive health care system.

Our work will not be done until crucial national priorities are no longer crowded out by health care spending.

Our work will not be done until exploding health care costs no longer cut into family budgets, no longer weigh down businesses, and no longer drain tax dollars from local, State, and Federal budgets.

It will not be easy, but as history demonstrates the important changes rarely are.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the unanimous consent request indicated that there would be 15 minutes on the Cardin amendment, No. 1475. I am wondering if my friend from Arizona might listen to this as well. On Senator CARDIN's amendment, we did not say ''equally divided.'' We are not sure whether there is opposition to it. If there is, we should now say ''equally divided.'' If not, Senator CARDIN only needs about 5 to 10 minutes.

Mr. MCCAIN. I am not sure anyone wants to challenge Senator CARDIN's eloquence.

Mr. LEVIN. In that case, I ask unanimous consent we say ''equally divided'' in case anyone changes their mind.

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

The Senator from Maryland is recognized.

AMENDMENT NO. 1475

Mr. CARDIN. I call up amendment No. 1475 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN] proposes an amendment numbered 1475.

Mr. CARDIN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require the Secretary of Defense to report on the numbers and percentages of troops that have served or are serving in Iraq and Afghanistan who have been prescribed antidepressants or drugs to treat anxiety)

At the end of subtitle C of title VII, add the following:

SEC. 724. PRESCRIPTION OF ANTIDEPRESSANTS FOR TROOPS SERVING IN IRAQ AND AFGHANISTAN.

(a) REPORT.—

(1) IN GENERAL.—Not later than June 30, 2010, and annually thereafter until June 30, 2015, the Secretary of Defense shall submit to Congress a report on the prescription of antidepressants and drugs to treat anxiety for troops serving in Iraq and Afghanistan.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) the numbers and percentages of troops that have served or are serving in Iraq and Afghanistan since January 1, 2005, who have been prescribed antidepressants or drugs to treat anxiety, including psychotropic drugs such as Selective Serotonin Reuptake Inhibitors (SSRIs); and

(B) the policies and patient management practices of the Department of Defense with respect to the prescription of such drugs.

(b) NATIONAL INSTITUTE OF MENTAL HEALTH STUDY.—

(1) STUDY.—The National Institute of Mental Health shall conduct a study on the potential relationship between the increased number of suicides and attempted suicides by members of the Armed Forces and the increased number of antidepressants, drugs to treat anxiety, other psychotropics, and other behavior modifying prescription medications being prescribed, including any combination or interactions of such prescriptions. The Department of Defense shall immediately make available to the National Institute of Mental Health all data necessary to complete the study.

(2) REPORT ON FINDINGS.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the findings of the study conducted pursuant to paragraph (1).

Mr. CARDIN. I want to thank Senators LEVIN and MCCAIN for their help in allowing me to bring forward this amendment. This amendment is an important amendment which deals with the increasing numbers of suicides and attempted suicides by the young men and women serving in the U.S. military.

We have not only seen each month an increased number of suicides and attempted suicides, but recently we saw

the killing of five of our servicemembers when a fellow soldier allegedly opened fire inside a mental health clinic at Camp Liberty in Iraq.

The purpose of this amendment is for the Department of Defense to give us information on the type of medications that are being prescribed so we can get a better handle on whether there is more that we can do in order to protect our young men and women who are serving our Nation.

Yesterday, we did something to help in approving the Lieberman amendment. The Lieberman amendment increased our force levels, our authorized force levels. One of the suspected reasons suicides and attempted suicides are increasing is the number of deployments, the length of deployments, and the fact that we do not have enough personnel in order to do the normal military responsibilities so that we have to continue to call up again our young people for renewed deployments. That will certainly help.

This Congress has passed significant increases in funds for mental health services for our service personnel. That will clearly help. But one thing we should all be concerned about is that there are more and more of our soldiers who are using prescription antidepressant drugs, SSRIs, and we are not clear as to whether they are under appropriate medical supervision. I say that because these SSRIs take several weeks before they reach their full potential as far as blocking depression or dealing with the causes of depression. During that period of time, particularly if they are in the age group of 18 to 24—many are in that age group—they are susceptible to increased thoughts of suicide.

Many of our service people are changing from location to location. They may very well be in the theater of battle. They may not be able to get the proper type of supervision. So we are concerned about whether the use of these drugs is being appropriately administered, but we do not have the facts; we do not have the information. We need to get that information.

There have been surveys which have shown that as many as 12 percent of those who are serving in Iraq and 17 percent of those who are serving in Afghanistan are using some form of prescribed antidepressant or sleeping pills in order to deal with their needs. That would equal 20,000 of our service personnel using prescription medicines or antidepressants or sleep medicines. We need to get the information.

My amendment is simple. My amendment says starting in June of 2010 and through 2015, the Department of Defense will make available to Congress the information on the number of personnel receiving these antidepressant drugs. It is done in a generic sense; therefore, there is no individual information about any service personnel. We protect their individual privacy as we have under HIPAA. This is absolutely protected. There is no stigma attached at all to this survey.

I think we have tried to deal with the legitimate concerns that have been raised. I hope my colleagues would agree that this is an important matter that should be included in our DOD authorization. I talked about it yesterday. I am glad now that I had the opportunity to, in fact, offer this amendment.

With that, if there is no one interested in speaking in opposition, I am prepared to yield back my time.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

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

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

AMENDMENT NO. 1760

Mr. KYL. What I am going to do now is seek to get an amendment which is filed pending. The other side will want to offer a side-by-side amendment. I understand there may be an opportunity to debate some of this tonight. Some of the other debate may have to be tomorrow, and that is fine. But at this point, is there an amendment pending?

The PRESIDING OFFICER. There is not an amendment pending.

Mr. KYL. I call up amendment No. 1760 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. McCONNELL, Mr. McCAIN, Mr. INHOFE, Mr. SESSIONS, Mr. GRAHAM, Mr. VITTER, Mr. DeMINT, Mr. RISCH, Mr. CORNYN, Mr. BARRASSO, Mr. LIEBERMAN, and Mr. WICKER, proposes an amendment numbered 1760.

Mr. KYL. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To pursue United States objectives in bilateral arms control with the Russian Federation)

At the end of title XII, add the following:

SEC. 1232. LIMITATION ON FUNDS TO IMPLEMENT REDUCTIONS IN THE STRATEGIC NUCLEAR FORCES OF THE UNITED STATES PURSUANT TO ANY TREATY OR OTHER AGREEMENT WITH THE RUSSIAN FEDERATION.

(a) FINDINGS.—Congress makes the following findings:

(1) In the Joint Statement by President Dmitriy Medvedev of the Russian Federation and President Barack Obama of the United States of America after their meeting in London, England on April 1, 2009, the two Presidents agreed ''to pursue new and verifiable reductions in our strategic offensive arsenals in a step-by-step process, beginning by replacing the Strategic Arms Reduction Treaty with a new, legally-binding treaty''.

(2) At that meeting, the two Presidents instructed their negotiators to reach an agreement that ''will mutually enhance the security of the Parties and predictability and stability in strategic offensive forces, and will include effective verification measures drawn from the experience of the Parties in implementing the START Treaty''.

(3) Subsequently, on April 5, 2009, in a speech in Prague, the Czech Republic, President Obama proclaimed, ''Iran's nuclear and ballistic missile activity poses a real threat, not just to the United States, but to Iran's neighbors and our allies. The Czech Republic and Poland have been courageous in agreeing to host a defense against these missiles. As long as the threat from Iran persists, we will go forward with a missile defense system that is cost-effective and proven.''

(4) President Obama also said, ''As long as these [nuclear] weapons exist, the United States will maintain a safe, secure and effective arsenal to deter any adversary, and guarantee that defense to our allies, including the Czech Republic. But we will begin the work of reducing our arsenal.''

(b) LIMITATION.—Funds authorized to be appropriated by this Act or otherwise made available to the Department of Defense for fiscal year 2010 may not be obligated or expended to implement reductions in the strategic nuclear forces of the United States pursuant to any treaty or other agreement entered into between the United States and the Russian Federation on strategic nuclear forces after the date of enactment of this Act unless the President certifies to Congress that—

(1) the treaty or other agreement provides for sufficient mechanisms to verify compliance with the treaty or agreement;

(2) the treaty or other agreement does not place limitations on the ballistic missile defense systems, space capabilities, or advanced conventional weapons of the United States; and

(3) the fiscal year 2011 budget request for programs of the Department of Energy's National Nuclear Security Administration will be sufficiently funded—

(A) to maintain the reliability, safety, and security of the remaining strategic nuclear forces of the United States; and

(B) to modernize and refurbish the nuclear weapons complex.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the stockpiles of strategic and nonstrategic weapons of the United States and the Russian Federation.

(d) DEFINITIONS.—In this section:

(1) ADVANCED CONVENTIONAL WEAPONS.—The term ''advanced conventional weapons'' means any advanced weapons system that has been specifically designed not to carry a nuclear payload.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following committees:

(A) The Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

(B) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

Mr. KYL. If there are others who wish the floor, I would be happy to accede to their wishes so that I can come back tomorrow and discuss it further.

This is identical to an amendment that was unanimously adopted by the House of Representatives in their version of the Defense authorization bill. So I would hope that on both sides of the aisle this should not be particularly controversial.

It has to do with the START negotiations, the negotiation the administration is engaged in with the Russians right now on the number of warheads and delivery vehicles that both Russia and the United States will field in the next many years.

Whatever those numbers are, whatever the agreement is, that treaty will be presented to the Senate later this year. Presumably we will act on it either late this year or early next year.

All this amendment does is say that during the 7 years when the START Treaty is implemented, the United States needs to do certain things. We want to make sure the treaty is verifiable. That is something we all agree with. We need to ensure that our missile defenses are protected; that our conventional strike capability is protected, that is, our submarines and bombers that deliver conventional weapons, for example, and, very importantly, we want to make sure the modernization program for our nuclear weapons complex and the weapons themselves, the modernization program that was recommended by the bipartisan Perry-Schlesinger Commission begins to be implemented.

In fact, this amendment does not identify exactly what that program is. It does not say it has to be a particular amount of money or describe the details of it. But it does say we need to get a modernization program underway.

The point of this is to simply acknowledge the obvious; which is, as we begin to reduce the number of warheads and delivery vehicles in our strategic nuclear deterrent, we need to make more and more sure what we have works and works well.

It is an aging stockpile. The Perry-Schlesinger Commission noted that there is a lot of work that needs to be done to bring these weapons up to modern conditions to maintain them appropriately to ensure they are safe and reliable. The work that has to be done on that is going to take some time and cost some money.

So it makes sense to put Congress on record with the administration as insisting that we begin this process right away. The amendment does not say this, but my strong recommendation to the administration is, since they are going to begin putting the budget for fiscal year 2011 together starting in another month or two, that they need to be working now on what their budget recommendations for 2011 are for the modernization of our nuclear complex and stockpile.

So what this amendment would do is to say, as the START Treaty is implemented, whatever that treaty is, it does not bind the administration in terms of what it negotiates, whatever it is, that that money cannot be spent on that until these other conditions are met as well.

I hope that since this received a unanimous endorsement in the House, it would not be particularly controversial on this side. I would just reiterate one final time, this does not bind our negotiators at all. It does not tell the negotiators what they can and cannot negotiate with the Russians.

What it says is, once they have negotiated whatever they have, then we need to start a process of modernizing our nuclear weapons program and stockpile. I think that is something, since it was the unanimous recommendation of the Perry-Schlesinger Commission, that we ought to be able to agree upon.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, under the existing unanimous consent agreement, the Lieberman amendment that would be in order after the disposition of the Kyl amendment was listed as being amendment 1744. The correct number is 1627. I ask unanimous consent that the consent agreement be so modified.

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

Mr. LEVIN. 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. 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 rise to make a few remarks in support of the Kyl amendment. This amendment relates to the possible follow-on agreement to the 1991 Strategic Arms Reduction Treaty, so-called START. The Joint Understanding issued at the recent Moscow summit suggests the United States and Russian Federation are well on their way toward completing a new agreement, perhaps even before the end of this year. Rather than wait until the agreement is signed and submitted to the Senate for the Senate's consent, this amendment provides an opportunity for the Senate to give its advice before the treaty's provisions are agreed to. It reflects this Senator's desire to see a follow-on treaty that does not weaken our nuclear deterrent or place in doubt our nuclear guarantee to our allies and partners who depend on it.

It also reflects a caveat that any future agreement should not limit U.S. missile defense capabilities or U.S. capabilities for long-range conventional strike. Finally, this amendment makes clear that any reductions in our nuclear stockpile should be supported by long-range plans to modernize our aging nuclear deterrent and supporting infrastructure. This is important. We have had testimony in the Armed Services Committee on a number of occasions from our top military commanders who deal with this issue. They say continued reductions of nuclear weapons must be accompanied by a modernization of the limited number we have left. When we do that, we can make them safer and far more difficult for anyone who were to nefariously obtain them to utilize and protect them and make them more reliable.

Most, if not all, would agree that it is important to ensure that the verification and monitoring provisions of the START Treaty of 1991 not be allowed to lapse come December 6.

While there are a number of ways to handle this, either by extending the current agreement or drafting a new agreement dealing specifically with these matters, the United States and Russia have chosen the more ambitious goal of a new treaty that would make further reductions in the current nuclear stockpiles which are today at the lowest levels since the Cold War. We have about 2,200 warheads today. We had 6,000 not too many years ago. We have reduced those numbers. I support that.

The rush to complete an agreement before START expires in December has led the United States to agree to provisions in the Joint Understanding that potentially may not be in our best interest. It is not a critical thing that we reach a firm agreement by the end of December. We should not allow the Russians to put us in a position where we are so desperate to reach an agreement by the end of the year that we would reach a bad agreement. At the very least, it can be said that these matters have not sufficiently been analyzed to know whether they are in our interest.

First, with respect to the central limits to be enshrined in a new agreement, the two sides agreed to warhead limits of between 1,500 and 1,675 warheads, and limits on the number of strategic nuclear delivery vehicles to somewhere between 500 and 1,100. That is quite a wide range. The final number is to be negotiated by the parties. The Senate has yet to see the analytical basis for the levels agreed to in the Joint Understanding which means we are not off to a good start in the advice and consent process.

Today the United States deploys approximately 2,200 operational nuclear warheads on some 900 delivery vehicles.

These are our ICBM missiles, our SLBMs, and bombers. Whether it is prudent to go below these numbers depends on some important considerations. To take that down to 500 would be a dramatic reduction of our delivery systems. Whether it is prudent to go below these numbers that we currently have depends on some important considerations, not the least of which is the impact on the size and shape of the U.S. nuclear TRIAD, the ICBMs, the submarine-launched missiles, and our bomber fleet; our ability to extend credible nuclear guarantees to our allies; and whether lower levels provide an incentive to other nuclear powers to build up their forces so they can be a peer competitor with the United States and Russia.

I will have more to say on this in the future. Suffice it to say that I have yet to hear a convincing strategic rationale that would justify going this low. Indeed, I believe the burden of proof will be on those who think it is necessary to continue to reduce U.S. nuclear force levels that are today but a fraction of what they used to be. My major concern, however, is language in the Joint Understanding which seems to suggest the two sides may establish limitations on U.S. missile defense and long-range conventional strategic strike capabilities. In other words, an agreement could well involve a limitation, either in part of the treaty or a corollary agreement, to limit our national missile defense capabilities. That is a dangerous and unwise linkage.

For example, the Joint Understanding states there will be a provision ''on the interrelationship of strategic offensive and strategic defensive arms.'' I find this troubling because we have made it clear to the Russians that our missile defense capabilities are not directed at, nor are they capable of being an effective defense against, massive Russian capabilities. We only have a plan to put in 44 missiles in the United States and 10 in Europe. That is a fraction of the capacity that the Russians have today. Instead we build missile defenses to address a threat to the United States and its allies posed by rogue nations such as North Korea and Iran. That is what 40 missiles in Alaska and California can do. That is what 10 in Europe could do. It can't defend against massive Russian delivery systems. It has no capability of doing that. They know it. So why do they object?

What do we mean, as we carry out this discussion, by the term ''strategic defensive arms''? How does one distinguish between a strategic and nonstrategic missile defense system? Is the United States SM–3 missile, which has some capability against long-range North Korean missiles, considered a strategic missile defense system? It is best not to get into negotiations that could eventually constrain our ability to build missile defenses against countries such as Iran and North Korea. To be sure, any such limitations would make a START follow-on agreement dead on arrival in the Senate. I don't believe the Senate would pass such an agreement.

The Joint Understanding also contains—between the Obama administration and Russia—a provision addressing the impact on strategic stability of strategic missiles in a nonnuclear configuration. This apparently is an attempt by Russia to constrain the ability of the United States to field long-range strike systems armed with conventional warheads, nonnuclear warheads.

Conventionally armed long-range strike systems, also known as ''prompt global strike,'' are consistent with a move by both countries to place less reliance on nuclear weapons for deterrence. Prompt global strike would allow the United States to launch a missile without a nuclear weapon that could take out a dangerous threat anywhere around the world in a very prompt fashion. We have debated that over the years in the Senate.

Finally, the amendment by Senator KYL would send a strong message to the administration that a START follow-on agreement must be supported at the same time it is submitted to the Senate for ratification by a long-term program to modernize the remaining nuclear forces of the United States, including warheads, delivery systems, and infrastructure needed to support both. Such a modernization is called for by the Congressional Commission on the Strategic Posture of the United States and by the Secretary of Defense, Secretary Gates, who last October said:

> There is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without resorting to testing our stockpile or pursuing a modernization program.

Our colleagues don't want us to test. They think this would be a bad example to Iran and North Korea. If we did that, somehow they might be more likely to want to test. I don't think it will have any impact on those rogue nations. The Secretary of Defense is saying that if we don't continue testing, we need to modernize the weapons system we have. If we continue to draw down the number, these 40, 50-year-old weapons need to be modernized. They need to be reliable. This Senator will condition his support for a START follow-on agreement upon a serious commitment by the administration to modernize our nuclear deterrent which remains necessary to protect the United States and our allies against threats to our vital interests.

I wish to note a similar version of this amendment was adopted unanimously by the House on their version of the national Defense authorization bill. I commend Senator KYL for offering it and note the importance of sending a clear message to the administration and to our allies and to Russia regarding our views on the ongoing START follow-up negotiations.

I wish to say what is obvious to all of us who have been here a long time. Senator KYL is a real patriot who has maintained a deep interest in these issues throughout his career. This is a well-thought-out, well-conceived amendment that is wise for our Senate to pass. I believe we will. I think if my colleagues will find the time to review it and think it through, they will be convinced this is a wise step for us to take at this time so we don't end up with misunderstanding later on when a treaty plops down in the Senate that has a lot of problems for a host of Senators.

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

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

AMENDMENTS NOS. 1472, 1518, 1569, 1553, 1471, 1512, 1473, 1561, 1520, 1600, 1555, 1488, 1476, 1612, 1560, 1500, 1535, 1536, 1510, 1492, 1495, 1599, 1636, 1619, 1638, 1642, 1499, 1634, 1676, AND 1677

Mr. LEVIN. Mr. President, I send a series of 30 amendments to the desk, which have been cleared by myself and Senator MCCAIN, and I ask for their immediate consideration.

The PRESIDING OFFICER (Mr. BEGICH). Is there objection?

Without objection, the amendments will be considered en bloc.

Mr. LEVIN. Mr. President, the amendments, I understand, have been cleared by the Republican side.

The PRESIDING OFFICER. Is there further debate?

Mr. LEVIN. Mr. President, I now ask unanimous consent that the amendments be agreed to en bloc and that the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1472

(Purpose: To modify the reporting requirement for the defense nanotechnology research and development program)

At the end of subtitle D of title II, add the following:

SEC. 252. MODIFICATION OF REPORTING REQUIREMENT FOR DEFENSE NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

Section 246 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 2358 note) is amended by striking subsection (e) and inserting the following new subsection (e):

''(e) REPORTS.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the National Science and Technology Council information on the program that covers the information described in paragraphs (1) through (5) of section 2(d) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(d)) to be included in the annual report submitted by the Council under that section.''.

AMENDMENT NO. 1518

(Purpose: To require the Secretary of the Army to expand the First Sergeants Barracks Initiative (FSBI) throughout the Army in order to improve the quality of life and living environments for single soldiers)

On page 565, after line 20, add the following:

Subtitle D—Other Matters

SEC. 2841. EXPANSION OF FIRST SERGEANTS BARRACKS INITIATIVE.

(a) EXPANSION OF INITIATIVE.—Not later than September 30, 2011, the Secretary of the Army shall expand the First Sergeants Barracks Initiative (FSBI) to include all Army installations in order to improve the quality of life and living environments for single soldiers.

(b) PROGRESS REPORTS.—Not later than February 15, 2010, and February 15, 2011, the Secretary of the Army shall submit to Congress a report describing the progress made in expanding the First Sergeants Barracks Initiative to all Army installations, including whether the Secretary anticipates meeting the deadline imposed by subsection (a).

AMENDMENT NO. 1569

(Purpose: To require a plan to manage vegetative encroachment at training ranges)

On page 92, between lines 18 and 19, insert the following:

SEC. 342. PLAN FOR MANAGING VEGETATIVE ENCROACHMENT AT TRAINING RANGES.

Section 366(a)(5) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 113 note) is amended—

(1) by striking ''(5) At the same time'' and inserting ''(5)(A) At the same time''; and

(2) by adding at the end the following new subparagraph:

''(B) Beginning with the report submitted to Congress at the same time as the President submits the budget for fiscal year 2011, the report required under this subsection shall include the following:

''(i) An assessment of the extent to which vegetation and overgrowth limits the use of military lands available for training of the Armed Forces in the United States and overseas.

''(ii) Identification of the particular installations and training areas at which vegetation and overgrowth negatively impact the use of training space.

''(iii)(I) As part of the first such report submitted, a plan to address training constraints caused by vegetation and overgrowth.

''(II) As part of each subsequent report, any necessary updates to such plan.''.

AMENDMENT NO. 1553

(Purpose: To authorize the Secretary of the Army to construct a previously authorized Armed Forces Reserve Center in vicinity of specified location at Pease Air National Guard Base, New Hampshire)

On page 553, between lines 15 and 16, insert the following:

SEC. 2707. AUTHORITY TO CONSTRUCT PREVIOUSLY AUTHORIZED ARMED FORCES RESERVE CENTER IN VICINITY OF SPECIFIED LOCATION AT PEASE AIR NATIONAL GUARD BASE, NEW HAMPSHIRE.

The Secretary of the Army may use funds appropriated pursuant to the authorization of appropriations in section 2703 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4715) for the purpose of constructing an Armed Forces Reserve Center at Pease Air National Guard Base, New Hampshire, to construct instead an Armed Forces Reserve Center in the vicinity of Pease Air National Guard Base at a location determined by the Secretary to be in the best interest of national security and in the public interest.

AMENDMENT NO. 1471

(Purpose: To release to the State of Arkansas a reversionary interest in Camp Joseph T. Robinson)

At the appropriate place, insert the following:

SEC. ___. RELEASE OF REVERSIONARY INTEREST.

The United States releases to the State of Arkansas the reversionary interest described in sections 2 and 3 of the Act entitled ''An Act authorizing the transfer of part of Camp Joseph T. Robinson to the State of Arkansas'', approved June 30, 1950 (64 Stat. 311, chapter 429), in and to the surface estate of the land constituting Camp Joseph T. Robinson, Arkansas, which is comprised of 40.515 acres of land to be acquired by the United States of America and 40.513 acres to be acquired by the City of North Little Rock, Arkansas, and lies in sections 6, 8, and 9 of township 2 North, Range 12 West, Pulaski County, Arkansas.

AMENDMENT NO. 1512

(Purpose: To require additional disclosure of poor performance in the contractor performance database)

On page 259, between lines 12 and 13, insert the following:

SEC. 824. MODIFICATIONS TO DATABASE FOR FEDERAL AGENCY CONTRACT AND GRANT OFFICERS AND SUSPENSION AND DEBARMENT OFFICIALS.

Subsection (c) of section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4556) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraphs:

''(6) Each audit report that, as determined by an Inspector General or the head of an audit agency responsible for the report, contains significant adverse information about a contractor that should be included in the database.

''(7) Each contract action that, as determined by the head of the contracting activity responsible for the contract action, reflects information about contractor performance or integrity that should be included in the database.''.

AMENDMENT NO. 1473

(Purpose: To modify the provision requiring the inclusion of pension obligations for certain Department of Energy facilities in the budget request of the President to include pension obligations for all Department of Energy facilities)

On page 590, lines 7 through 9, strike ''for the National Nuclear Security Administration or for defense environmental cleanup''.

AMENDMENT NO. 1561

(Purpose: To expand the authority of the Ombudsman under the Energy Employees Occupational Illness Compensation Program Act of 2000)

At the end of subtitle C of title XXXI, insert the following:

SEC. 3136. EXPANSION OF AUTHORITY OF OMBUDSMAN OF ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 3686 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385s–15) is amended—

(1) in subsection (c), by inserting ''and subtitle B'' after ''this subtitle'' each place it appears;

(2) in subsection (d), by inserting ''and subtitle B'' after ''this subtitle'';

(3) in subsection (e), by inserting ''and subtitle B'' after ''this subtitle'' each place it appears;

(4) by redesignating subsection (g) as subsection (h); and

(5) by inserting after subsection (f) the following new subsection:

''(g) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH OMBUDSMAN.—In carrying out the duties of the Ombudsman under this section, the Ombudsman shall work with the individual employed by the National Institute for Occupational Safety and Health to serve as an ombudsman to individuals making claims under subtitle B.''.

(b) CONSTRUCTION.—Except as specifically provided in subsection (g) of section 3686 of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended by subsection (a) of this section, nothing in the amendments made by such subsection (a) shall be construed to alter or affect the duties and functions of the individual employed by the National Institute for Occupational Safety and Health to serve as an ombudsman to individuals making claims under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384*l* et seq.).

AMENDMENT NO. 1520

(Purpose: To require a report on the re-determination process of the Department of Defense used to determine the eligibility of permanently incapacitated dependents of retired and deceased members of the Armed Forces for benefits provided under laws administered by the Secretary of Defense)

At the end of subtitle G of title X, add the following:

SEC. 1073. REPORT ON RE-DETERMINATION PROCESS FOR PERMANENTLY INCAPACITATED DEPENDENTS OF RETIRED AND DECEASED MEMBERS OF THE ARMED FORCES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the re-determination process of the Department of Defense used to determine the eligibility of permanently incapacitated dependents of retired and deceased members of the Armed Forces for benefits provided under laws administered by the Secretary. The report shall include the following:

(1) An assessment of the re-determination process, including the following:

(A) The rationale for requiring a quadrennial recertification of financial support after issuance of a permanent identification card to a permanently incapacitated dependent.

(B) The administrative and other burdens the quadrennial recertification imposes on the affected sponsor and dependents, especially after the sponsor becomes ill, incapacitated, or deceased.

(C) The extent to which the quadrennial recertification undermines the utility of issuing a permanent identification card.

(D) The extent of the consequences entailed in eliminating the requirement for quadrennial recertification.

(2) Specific recommendations for the following:

(A) Improving the efficiency of the recertification process.

(B) Minimizing the burden of such process on the sponsors of such dependents.

(C) Eliminating the requirement for quadrennial recertification.

AMENDMENT NO. 1600

(Purpose: To require the Comptroller General of the United States to conduct an audit of assistance to local educational agencies for the education of dependent children of members of the Armed Forces)

At the end of subtitle D of title V, add the following:

SEC. 537. COMPTROLLER GENERAL AUDIT OF ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR DEPENDENT CHILDREN OF MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the utilization by local educational agencies of the assistance specified in subsection (b) provided to such agencies for fiscal years 2001 through 2009 for the education of dependent children of members of the Armed Forces. The audit shall include—

(1) an evaluation of the utilization of such assistance by such agencies; and

(2) an assessment of the effectiveness of such assistance in improving the quality of education provided to dependent children of members of the Armed Forces.

(b) ASSISTANCE SPECIFIED.—The assistance specified in this subsection is—

(1) assistance provided under—

(A) section 572 the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3271; 20 U.S.C. 7703b);

(B) section 559 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1917);

(C) section 536 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1474);

(D) section 341 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2514);

(E) section 351 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1063); or

(F) section 362 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–76); and

(2) payments made under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

(c) REPORT.—Not later than March 1, 2010, the Comptroller General shall submit to the congressional defense committees a report containing the results of the audit required by subsection (a).

AMENDMENT NO. 1555

(Purpose: To permit the extension of eligibility for enrollment in Department of Defense elementary and secondary schools to certain additional categories of dependents)

At the end of subtitle D of title V, add the following:

SEC. 537. AUTHORITY TO EXTEND ELIGIBILITY FOR ENROLLMENT IN DEPARTMENT OF DEFENSE ELEMENTARY AND SECONDARY SCHOOLS TO CERTAIN ADDITIONAL CATEGORIES OF DEPENDENTS.

Section 2164 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(j) TUITION-FREE ENROLLMENT OF DEPENDENTS OF FOREIGN MILITARY PERSONNEL RESIDING ON DOMESTIC MILITARY INSTALLATIONS AND DEPENDENTS OF CERTAIN DECEASED MEMBERS OF THE ARMED FORCES.—(1) The Secretary may authorize the enrollment in an education program provided by the Secretary pursuant to subsection (a) of a dependent not otherwise eligible for such enrollment who is the dependent of an individual described in paragraph (2). Enrollment of such a dependent shall be on a tuition-free basis.

''(2) An individual referred to in paragraph (1) is any of the following:

''(A) A member of a foreign armed force residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States).

''(B) A deceased member of the armed forces who died in the line of duty in a combat-related operation, as designated by the Secretary.''.

AMENDMENT NO. 1488

(To include in the study on options for educational opportunities for dependent children of members of the Armed Forces consideration of the impact of such options on students with special needs)

On page 125, between lines 9 and 10, insert the following:

(H) The extent to which the options referred to in paragraph (2) would improve the quality of education available for students with special needs, including students with learning disabilities and gifted students.

AMENDMENT NO. 1476

(Purpose: To permit the Secretary of the Air Force to convey to certain Indian tribes certain relocatable military housing units)

At the end of title XXIII, add the following:

SEC. 23___. CONVEYANCE TO INDIAN TRIBES OF CERTAIN HOUSING UNITS.

(a) DEFINITIONS.—In this section:

(1) EXECUTIVE DIRECTOR.—The term ''Executive Director'' means the Executive Director of Walking Shield, Inc.

(2) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe included on the list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C.479a–1).

(b) REQUESTS FOR CONVEYANCE.—

(1) IN GENERAL.—The Executive Director may submit to the Secretary of the Air Force, on behalf of any Indian tribe located in the State of Idaho, Nevada, North Dakota, Oregon, South Dakota, Montana, or Minnesota, a request for conveyance of any relocatable military housing unit located at Grand Forks Air Force Base, Minot Air Force Base, Malmstrom Air Force Base, Ellsworth Air Force Base, or Mountain Home Air Force Base.

(2) CONFLICTS.—The Executive Director shall resolve any conflict among requests of Indian tribes for housing units described in paragraph (1) before submitting a request to the Secretary of the Air Force under this subsection.

(c) CONVEYANCE BY SECRETARY.—Notwithstanding any other provision of law, on receipt of a request under subsection (c)(1), the Secretary of the Air Force may convey to the Indian tribe that is the subject of the request, at no cost to the Air Force and without consideration, any relocatable military housing unit described in subsection (c)(1) that, as determined by the Secretary, is in excess of the needs of the military.

AMENDMENT NO. 1612

(Purpose: To modify the provision clarifying responsibility for preparation of the biennial global positioning system report)

Beginning on page 419, strike line 10 and all that follows through page 420, line 2, and insert the following:

(a) IN GENERAL.—Section 2281(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''the Secretary of Defense'' and inserting ''the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing,''; and

(B) by striking ''the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives'' and inserting ''the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives''; and

(2) by striking paragraph (2) and inserting the following new paragraph (2):

''(2) In preparing each report required under paragraph (1), the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing, shall consult with the Secretary of Defense, the Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security.''.

AMENDMENT NO. 1560

(Purpose: To make technical corrections regarding certain military construction projects at Cannon Air Force Base and Holloman Air Force Base, New Mexico)

On page 508, between lines 15 and 16, insert the following:

SEC. 2005. TECHNICAL CORRECTIONS REGARDING CERTAIN MILITARY CONSTRUCTION PROJECTS, NEW MEXICO.

Notwithstanding the table in section 4501, the amounts available for the following projects at the following installations shall be as follows:

Air Force: Inside the United States

State	Installation	Project Title	Senate Authorized Amount
New Mexico	Holloman Air Force Base	Fire-Crash Rescue Station	$0

Special Operations Command

State	Installation	Project Title	Senate Authorized Amount
New Mexico	Cannon Air Force Base	SOF AC 130 Loadout Apron Phase 1	$6,000,000

On page 523, in the table preceding line 1, in the item relating to Holloman Air Force Base, New Mexico, strike ''$15,900,000'' in the amount column and insert ''$5,500,000''.

On page 525, line 2, strike ''$1,746,821,000'' and insert ''$1,736,421,000''.

On page 525, line 5, strike ''$822,515,000'' and insert ''$812,115,000''.

On page 529, in the table preceding line 1 entitled ''Special Operations Command'', in the item relating to Cannon Air Force Base, New Mexico, strike ''$52,864,000'' in the amount column and insert ''$58,864,000''.

On page 531, line 16, strike ''$3,284,025,000'' and insert ''$3,290,025,000''.

On page 531, line 19, strike ''$963,373,000'' and insert ''$969,373,000''.

AMENDMENT NO. 1500

(Purpose: To include analysis of military whistleblower reprisal appeals in the assessment by the Comptroller General of the United States of military whistleblower protections)

On page 428, between lines 21 and 22, insert the following:

(3) A sample of military whistleblower reprisal appeals (as selected by the Comptroller General for the purposes of this section) heard by the Boards for the Correction of Military Records referred to in section 1552 of title 10, United States Code, of each military department.

AMENDMENT NO. 1535

(Purpose: To require the Director of National Intelligence to report on Cuba and Cuba's relations with other countries)

At the end of subtitle B of title XII, add the following:

SEC. 1222. REPORT ON CUBA AND CUBA'S RELATIONS WITH OTHER COUNTRIES.

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to the defense and intelligence committees of the Congress a report addressing the following:

(1) The cooperative agreements and relationships that Cuba has with Iran, North Korea, and other states suspected of nuclear proliferation.

(2) A detailed account of the economic support provided by Venezuela to Cuba and the intelligence and other support that Cuba provides to the government of Hugo Chavez.

(3) A review of the evidence of relationships between the Cuban government or any of its components with drug cartels or involvement in other drug trafficking activities.

(4) The status and extent of Cuba's clandestine activities in the United States.

(5) The extent and activities of Cuban support for governments in Venezuela, Bolivia, Ecuador, Central America, and the Caribbean.

(6) The status and extent of Cuba's research and development program for biological weapons production.

(7) The status and extent of Cuba's cyberwarfare program.

AMENDMENT NO. 1536

(Purpose: To require the Director of National Intelligence to report on political and other support provided by Venezuelan officials to terrorist and other groups)

At the end of subtitle B of title XII, add the following:

SEC. 1222. REPORT ON VENEZUELA.

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to the defense and intelligence committees of the Congress a report addressing the following:

(1) An inventory of all weapons purchases by, and transfers to, the government of Venezuela and Venezuela's transfers to other countries since 1998, particularly purchases and transfers of missiles, ships, submarines, and any other advanced systems. The report shall include an assessment of whether there is accountability of the purchases and transfers with respect to the end-use and diversion of such materiel to popular militias, other governments, or irregular armed forces.

(2) The mining and shipping of Venezuelan uranium to Iran, North Korea, and other states suspected of nuclear proliferation.

(3) The extent to which Hugo Chavez and other Venezuelan officials and supporters of the Venezuelan government provide political counsel, collaboration, financial ties, refuge, and other forms of support, including military materiel, to the Revolutionary Armed Forces of Colombia (FARC).

(4) The extent to which Hugo Chavez and other Venezuelan officials provide funding, logistical and political support to the Islamist terrorist organization Hezbollah.

(5) Deployment of Venezuelan security or intelligence personnel to Bolivia, including any role such personnel have in suppressing opponents of the government of Bolivia.

(6) Venezuela's clandestine material support for political movements and individuals throughout the Western Hemisphere with the objective of influencing the internal affairs of nations in the Western Hemisphere.

(7) Efforts by Hugo Chavez and other officials or supporters of the Venezuelan government to convert or launder funds that are the property of Venezuelan government agencies, instrumentalities, parastatals, including Petroleos de Venezuela, SA (PDVSA).

(8) Covert payments by Hugo Chavez or officials or supporters of the Venezuelan government to foreign political candidates, government officials, or officials of international organizations for the purpose of influencing the performance of their official duties.

AMENDMENT NO. 1510

(Purpose: To provide technical changes to land conveyance matters regarding Ellsworth Air Force Base, South Dakota)

On page 565, after line 20, add the following:

SEC. 2832. LAND CONVEYANCE, ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA.

(a) CHANGE IN RECIPIENT UNDER EXISTING AUTHORITY.—

(1) IN GENERAL.—Section 2863(a) of the Military Construction Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2010), as amended by section 2865(a) of the Military Construction Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–435), is further amended by striking ''West River Foundation for Economic and Community Development, Sturgis, South Dakota (in this section referred to as the 'Foundation')'' and inserting ''South Dakota Ellsworth Development Authority, Pierre, South Dakota (in this section referred to as the 'Authority')''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2863 of the Military Construction Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2010), as amended by section 2865(b) of the Military Construction Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–435), is further amended—

(A) by striking ''Foundation'' each place it appears in subsections (c) and (e) and inserting ''Authority'';

(B) in subsection (b)(1)—

(i) in subparagraph (B), by striking ''137.56 acres'' and inserting ''120.70 acres''; and

(ii) by striking subparagraphs (C), (D), and (E).

(b) NEW CONVEYANCE AUTHORITY.—

(1) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the South Dakota Ellsworth Development Authority, Pierre, South Dakota (in this subsection referred to as the ''Authority''), all right, title, and interest of the United States in and to the parcels of real property located at Ellsworth Air Force Base, South Dakota, referred to in paragraph (2).

(2) COVERED PROPERTY.—The real property referred to in paragraph (1) is the following:

(A) A parcel of real property, together with any improvements thereon, consisting of approximately 2.37 acres and comprising the 11000 West Communications Annex.

(B) A parcel of real property, together with any improvements thereon, consisting of approximately 6.643 acres and comprising the South Nike Education Annex.

(3) CONDITION.—As a condition of the conveyance under this subsection, the Authority, and any person or entity to which the Authority transfers the property, shall comply in the use of the property with the applicable provisions of the Ellsworth Air Force Base Air Installation Compatible Use Zone Study.

(4) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under paragraph (1) is not being used in compliance with the applicable provisions of the Ellsworth Air Force Base Air Installation Compatible Use Zone Study, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this paragraph shall be made on the record after an opportunity for a hearing.

(5) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this subsection shall be determined by a survey satisfactory to the Secretary.

(6) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 1492

(Purpose: To authorize a land conveyance at F.E. Warren Air Force Base, Cheyenne, Wyoming)

On page 565, after line 20, add the following:

SEC. 2832. LAND CONVEYANCE, F.E. WARREN AIR FORCE BASE, CHEYENNE, WYOMING.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the County of Laramie, Wyoming (in this section referred to as the ''County'') all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 73 acres along the southeastern boundary of F.E. Warren Air Force Base, Cheyenne, Wyoming, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the entire property for healthcare facilities.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the County shall provide the United States consideration, whether by cash payment, in-kind consideration as described under paragraph (2), or a combination thereof, in an amount that is not less than the fair market value of the conveyed real property, as determined by the Secretary.

(2) IN-KIND CONSIDERATION.—In-kind consideration provided by the County under paragraph (1) may include the acquisition, construction, provision, improvement, maintenance, repair, or restoration (including environmental restoration), or combination thereof, of any facilities or infrastructure relating to the security of F.E. Warren Air Force Base, that the Secretary considers acceptable.

(3) RELATION TO OTHER LAWS.—Sections 2662 and 2802 of title 10, United States Code, shall not apply to any new facilities or infrastructure received by the United States as in-kind consideration under paragraph (2).

(4) NOTICE TO CONGRESS.—The Secretary shall provide written notification to the congressional defense committees of the types and value of consideration provided the United States under paragraph (1).

(5) TREATMENT OF CASH CONSIDERATION RECEIVED.—Any cash payment received by the United States under paragraph (1) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B)(ii) of such subsection.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines at any time that the County is not using the property conveyed under subsection (a) in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) RELEASE OF REVERSIONARY INTEREST.—The Secretary shall release, without consideration, the reversionary interest retained by the United States under paragraph (1) if—

(A) F.E. Warren Air Force Base, Cheyenne Wyoming, is no longer being used for Department of Defense activities; or

(B) the Secretary determines that the reversionary interest is otherwise unnecessary to protect the interests of the United States.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of in-kind consideration under paragraph (b), including survey costs, appraisal costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of in-kind consideration. If amounts are received from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance and implementing the receipt of in-kind consideration. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 1495

(Purpose: To authorize a land conveyance at Lackland Air Force Base, Texas)

On page 565, after line 20, insert the following:

SEC. 2832. LAND CONVEYANCE, LACKLAND AIR FORCE BASE, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to an eligible entity, all right, title, and interest of the United States to not more than 250 acres of real property and associated easements and improvements on Lackland Air Force Base, Texas, in exchange for real property adjacent to or near the installation for the purpose of relocating and consolidating Air Force tenants located on the former Kelly Air Force Base, Texas, onto the main portion of Lackland Air Force Base.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the eligible entity accept the real property in its condition at the time of the conveyance, commonly known as conveyance ''as is'' and not subject to the requirements for covenants in deed under section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)).

(c) ELIGIBLE ENTITIES.—A conveyance under this section may be made to the City of San Antonio, Texas, or an organization or agency chartered or sponsored by the local or State government.

(d) CONSIDERATION.—As consideration for the conveyance under subsection (a), the eligible entity shall provide the Air Force with real property or real property improvements, or a combination of both, of equal value, as determined by the Secretary. If the fair market value of the real property or real property improvements, or combination thereof, is less than the fair market value of the real property to be conveyed by the Air Force, the eligible entity shall provide cash payment to the Air Force, or provide Lackland Air Force Base with in-kind consideration of an amount equal to the difference in the fair market values. Any cash payment received by the Air Force for the conveyance authorized by subsection (a) shall be deposited in the special account described in section 2667(e) of title 10, United States Code, and shall be available to the Secretary for the same uses and subject to the same limitations as provided in that section.

(e) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary may require the eligible entity to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under this section, including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from the eligible entity in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the eligible entity.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 1599

(Purpose: To authorize a land conveyance at Haines Tank Farm, Haines, Alaska)

On page 565, after line 20, insert the following:

SEC. 2832. LAND CONVEYANCE, HAINES TANK FARM, HAINES, ALASKA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Chilkoot Indian Association (in this section referred to as the ''Association'') all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 201 acres located at the former Haines Fuel Terminal (also known as the Haines Tank Farm) in Haines, Alaska, for the purpose of permitting the Association to develop a Deep Sea Port and for other industrial and commercial development purposes. To the extent practicable, the Secretary is encouraged to complete the conveyance by September 30, 2013, but not prior to the date of completion of all obligations referenced in subsection (e).

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Association shall pay to the Secretary an amount equal to the fair market value of the property, as determined by the Secretary. The determination of the Secretary shall be final.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Association to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Association in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Association.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) SAVINGS PROVISION.—The Haines Tank Farm is currently under a remedial investigation (RI) for petroleum, oil and lubricants contamination. Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERM AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 1636

(Purpose: To authorize land conveyances of certain parcels in the Camp Catlin and Ohana Nui areas, Pearl Harbor, Hawaii)

On page 565, after line 20, add the following:

SEC. 2832. LAND CONVEYANCES OF CERTAIN PARCELS IN THE CAMP CATLIN AND OHANA NUI AREAS, PEARL HARBOR, HAWAII.

(a) CONVEYANCES AUTHORIZED.—The Secretary of the Navy (''the Secretary'') may convey to any person or entity leasing or licensing real property located at Camp Catlin and Ohana Nui areas, Hawaii, as of the date of the enactment of this Act (''the lessee'') all right, title, and interest of the United States in and to the portion of such property that is respectively leased or licensed by such person or entity for the purpose of continuing the same functions as are being conducted on the property as of the date of the enactment of this Act.

(b) CONSIDERATION.—As consideration for a conveyance under subsection (a), the lessee shall provide the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market of the conveyed property, as determined pursuant to an appraisal acceptable to the Secretary.

(c) EXERCISE OF RIGHT TO PURCHASE PROPERTY.—

(1) ACCEPTANCE OF OFFER.—For a period of 180 days beginning on the date the Secretary makes a written offer to convey the property or any portion thereof under subsection (a), the lessee shall have the exclusive right to accept such offer by providing written notice of acceptance to the Secretary within the specified 180-day time period. If the Secretary's offer is not so accepted within the 180-day period, the offer shall expire.

(2) CONVEYANCE DEADLINE.—If a lessee accepts the offer to convey the property or a portion thereof in accordance with paragraph (1), the conveyance shall take place not later than 2 years after the date of the lessee's written acceptance, provided that the conveyance date may be extended for a reasonable period of time by mutual agreement of the parties, evidenced by a written instrument executed by the parties prior to the end of the 2-year period. If the lessee's lease or license term expires before the conveyance is completed, the Secretary may extend the lease or license term up to the date of conveyance, provided that the lessee shall be required to pay for such extended term at the rate in effect at the time it was declared excess property.

(d) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the lessee to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out a conveyance under subsection (a), including survey costs, related to the conveyance. If amounts are collected from the lessee in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the lessee.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received under paragraph (1) as reimbursement for costs incurred by the Secretary to carry out a conveyance under subsection (a) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERM AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 1619

(Purpose: To authorize the Department of Defense to participate in programs for the management of energy demand or the reduction of energy usage during peak periods)

At the appropriate place in title III, insert the following:

SEC. ____. DEPARTMENT OF DEFENSE PARTICIPATION IN PROGRAMS FOR MANAGEMENT OF ENERGY DEMAND OR REDUCTION OF ENERGY USAGE DURING PEAK PERIODS.

(a) IN GENERAL.—Subchapter I of chapter 173 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2919. Department of Defense participation in programs for management of energy demand or reduction of energy usage during peak periods

''(a) PARTICIPATION IN DEMAND RESPONSE OR LOAD MANAGEMENT PROGRAMS.—The Secretary of Defense, the Secretaries of the military departments, the heads of the Defense Agencies, and the heads of other instrumentalities of the Department of Defense are authorized to participate in demand response programs for the management of energy demand or the reduction of energy usage during peak periods conducted by any of the following parties:

''(1) An electric utility

''(2) An independent system operator.

''(3) A State agency.

''(4) A third party entity (such as a demand response aggregator or curtailment service provider) implementing demand response programs on behalf of an electric utility, independent system operator, or State agency.

''(b) TREATMENT OF CERTAIN FINANCIAL INCENTIVES.—Financial incentives received

from an entity specified in subsection (a) shall be received in cash and deposited into the Treasury as a miscellaneous receipt. Amounts received shall be available for obligation only to the extent provided in advance in an appropriations Act. The Secretary concerned or the head of the Defense Agency or other instrumentality, as the case may be, shall pay for the cost of the design and implementation of these services in full in the year in which they are received from amounts provided in advance in an appropriations Act.

''(c) USE OF CERTAIN FINANCIAL INCENTIVES.—Of the amounts derived from financial incentives awarded to a military installation as described in subsection (b) and provided for in advance by an appropriations Act—

''(1) not less than 100 percent shall be made available for use at such military installation; and

''(2) not less than 30 percent shall be made available for energy management initiatives at such installation.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''2919. Department of Defense participation in programs for management of energy demand or reduction of energy usage during peak periods.''.

AMENDMENT NO. 1638

(Purpose: To require a master plan to provide world class military medical facilities in the National Capital Region)

At the end of title XXVII, add the following:

SEC. 2707. REQUIREMENT FOR MASTER PLAN TO PROVIDE WORLD CLASS MILITARY MEDICAL FACILITIES IN THE NATIONAL CAPITAL REGION.

(a) MASTER PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall develop and implement a comprehensive master plan to provide world class military medical facilities and an integrated system of health care delivery for the National Capital Region that—

(1) addresses—

(A) the unique needs of members of the Armed Forces and retired members of the Armed Forces and their families;

(B) the care, management, and transition of seriously ill and injured members of the Armed Forces and their families;

(C) the missions of the branch or branches of the Armed Forces served; and

(D) performance expectations for the future integrated health care delivery system, including—

(i) information management and information technology support; and

(ii) expansion of support services;

(2) includes the establishment of an integrated process for the joint development of budgets, prioritization of requirements, and the allocation of funds;

(3) designates a single entity within the Department of Defense with the budget and operational authority to respond quickly to and address emerging facility and operational requirements required to provide and operate world class military medical facilities in the National Capital Region;

(4) incorporates all ancillary and support facilities at the National Naval Medical Center, Bethesda, Maryland, including education and research facilities as well as centers of excellence, transportation, and parking structures required to provide a full range of adequate care and services for members of the Armed Forces and their families;

(5) ensures that each facility covered by the plan meets or exceeds Joint Commission hospital design standards as applicable; and

(6) can be used as a model to develop similar master plans for all military medical facilities within the Department of Defense.

(b) MILESTONE SCHEDULE AND COST ESTIMATES.—Not later than 90 days after the development of the master plan required by (a), the Secretary shall submit to the congressional defense committees a report describing—

(1) the schedule for completion of requirements identified in the master plan; and

(2) updated cost estimates to provide world class military medical facilities for the National Capital Region.

(c) DEFINITIONS.—In this section:

(1) NATIONAL CAPITAL REGION.—The term ''National Capital Region'' has the meaning given the term in section 2674(f) of title 10, United States Code.

(2) WORLD CLASS MILITARY MEDICAL FACILITY.—The term ''world class military medical facility'' has the meaning given the term by the National Capital Region Base Realignment and Closure Health Systems Advisory Subcommittee of the Defense Health Board in appendix B of the report entitled ''Achieving World Class – An Independent Review of the Design Plans for the Walter Reed National Military Medical Center and the Fort Belvoir Community Hospital'', published in May, 2009.

AMENDMENT NO. 1642

(Purpose: To require the Comptroller General of the United States to conduct a review of spending in the final quarter of fiscal year 2009 by the Department of Defense)

At the end of subtitle G of title X, add the following:

SEC. 1073. COMPTROLLER GENERAL REVIEW OF SPENDING IN THE FINAL QUARTER OF FISCAL YEAR 2009 BY THE DEPARTMENT OF DEFENSE.

(a) REVIEW OF SPENDING BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a review of the obligations and expenditures of the Department of Defense in the final quarter of fiscal year 2009, as compared to the obligations and expenditures of the Department in the first three quarters of that fiscal year, to determine if policies with respect to spending by the Department contribute to hastened year-end spending and poor use or waste of taxpayer dollars.

(b) REPORT.—Not later than the earlier of March 30, 2010, or the date that is 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing—

(1) the results of the review conducted under subsection (a); and

(2) any recommendations of the Comptroller General with respect to improving the policies pursuant to which amounts appropriated to the Department of Defense are obligated and expended in the final quarter of the fiscal year.

AMENDMENT NO. 1499

(Purpose: To authorize an Air Force Academy athletics support program)

On page 120, before line 1, insert the following:

SEC. 524. AIR FORCE ACADEMY ATHLETIC ASSOCIATION.

(a) IN GENERAL.—Chapter 903 of title 10, United States Code, is amended by inserting after section 9361 the following new section:

''§ 9362. Air Force Academy athletic programs support

''(a) ESTABLISHMENT AUTHORIZED.—

''(1) IN GENERAL.—The Secretary of the Air Force may, in accordance with the laws of the State of incorporation, establish a corporation to support the athletic programs of the Academy (in this section referred to as the 'corporation'). All stock of the corporation shall be owned by the United States and held in the name of and voted by the Secretary of the Air Force.

''(2) PURPOSE.—The corporation shall operate exclusively for charitable, educational, and civic purposes to support the athletic programs of the Academy.

''(b) CORPORATE ORGANIZATION.—The corporation shall be organized and operated—

''(1) as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(2) in accordance with this section; and

''(3) pursuant to the laws of the State of incorporation, its articles of incorporation, and its bylaws.

''(c) CORPORATE BOARD OF DIRECTORS.—

''(1) COMPENSATION.—The members of the board of directors shall serve without compensation, except for reasonable travel and other related expenses for attendance at meetings.

''(2) AIR FORCE PERSONNEL.—The Secretary of the Air Force may authorize military and civilian personnel of the Air Force under section 1033 of this title to serve, in their official capacities, as members of the board of directors, but such personnel shall not hold more than one third of the directorships.

''(d) TRANSFER FROM NONAPPROPRIATED FUND OPERATION.—The Secretary of the Air Force may, subject to the acceptance of the corporation, transfer to the corporation all title to and ownership of the assets and liabilities of the Air Force nonappropriated fund instrumentality whose functions include providing support for the athletic programs of the Academy, including bank accounts and financial reserves in its accounts, equipment, supplies, and other personal property, but excluding any interest in real property.

''(e) ACCEPTANCE OF GIFTS.—The Secretary of the Air Force may accept from the corporation funds, supplies, and services for the support of cadets and Academy personnel during their participation in, or in support of, Academy or corporate events related to the Academy athletic programs.

''(f) LEASING.—The Secretary of the Air Force may, in accordance with section 2667 of this title, lease real and personal property to the corporation for purposes related to the Academy athletic programs. Money rentals received from any such lease may be retained and spent by the Secretary to support athletic programs of the Academy.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 9361 the following new item:

''9362. Air Force Academy athletic programs support.''.

AMENDMENT NO. 1634

(Purpose: To express the sense of Congress regarding airfares for members of the Armed Forces)

On page 201, after line 25, add the following:

SEC. 652. SENSE OF CONGRESS ON AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Armed Forces is comprised of over 1,450,000 active-duty members from every State and territory of the United States who are assigned to thousands of installations, stations, and ships worldwide and who oftentimes must travel long distances by air at their own expense to enjoy the benefits of leave and liberty.

(2) The United States is indebted to the members of the all volunteer Armed Forces

and their families who protect our Nation, often experiencing long separations due to the demands of military service and in life threatening circumstances.

(3) Military service often precludes long range planning for leave and liberty to provide opportunities for reunions and recreation with loved ones and requires changes in planning due to military necessity which results in last minute changes in planning.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all United States commercial carriers should seek to lend their support with flexible, generous policies applicable to members of the Armed Forces who are traveling on leave or liberty at their own expense; and

(2) each United States air carrier, for all members of the Armed Forces who have been granted leave or liberty and who are traveling by air at their own expense, should—

(A) seek to provide reduced air fares that are comparable to the lowest airfare for ticketed flights and that eliminate to the maximum extent possible advance purchase requirements;

(B) seek to eliminate change fees or charges and any penalties for military personnel;

(C) seek to eliminate or reduce baggage and excess weight fees;

(D) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, and to waive fees (including baggage fees), ancillary costs, or penalties; and

(E) seek to take proactive measures to ensure that all airline employees, particularly those who issue tickets and respond to members of the Armed Forces and their family members are trained in the policies of the airline aimed at benefitting members of the Armed Forces who are on leave.

AMENDMENT NO. 1676

(Purpose: To require the Comptroller General of the United States to review the assessment and plan for the Ground-based Midcourse Defense element of the Ballistic Missile Defense System)

On page 66, between lines 19 and 20, insert the following:

(e) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall—

(1) review the assessment required by subsection (b) and the plan required by subsection (c); and

(2) not later than 120 days after receiving the assessment and the plan, provide to the congressional defense committees the results of the review.

AMENDMENT NO. 1677

(Purpose: To avoid a break in production of the Ground-based Interceptor missile until the Department of Defense completes the Ballistic Missile Defense Review and to ensure there is no gap in homeland defense by ensuring that Missile Field 1 at Fort Greely, Alaska, does not complete decommissioning until seven silos have been emplaced at Missile Field 2 at Fort Greely)

At the end of subtitle C of title II, add the following:

SEC. 245. CONTINUED PRODUCTION OF GROUND-BASED INTERCEPTOR MISSILE AND OPERATION OF MISSILE FIELD 1 AT FORT GREELY, ALASKA.

(a) LIMITATION ON BREAK IN PRODUCTION.—The Secretary of Defense shall ensure that the Missile Defense Agency does not allow a break in production of the Ground-based Interceptor missile until the Department of Defense has—

(1) completed the Ballistic Missile Defense Review; and

(2) made a determination with respect to the number of Ground-based Interceptor missiles that will be necessary to support the service life of the Ground-based Midcourse Defense element of the Ballistic Missile Defense System.

(b) LIMITATION ON CERTAIN ACTIONS WITH RESPECT TO MISSILE FIELD 1 AND MISSILE FIELD 2 AT FORT GREELY, ALASKA.—

(1) LIMITATION ON DECOMMISSIONING OF MISSILE FIELD 1.—The Secretary of Defense shall ensure that Missile Field 1 at Fort Greely, Alaska, does not complete decommissioning until seven silos have been emplaced at Missile Field 2 at Fort Greely.

(2) LIMITATION WITH RESPECT TO DISPOSITION OF SILOS AT MISSILE FIELD 2.—The Secretary of Defense shall ensure that no irreversible decision is made with respect to the disposition of operational silos at Missile Field 2 at Fort Greely, Alaska, until that date that is 60 days after the date on which the reports required by subsections (b)(3) and (c)(3) of section 243 are submitted to the congressional defense committees.

Mr. LEVIN. Now, Mr. President, I would ask unanimous consent that Senator UDALL be recognized as in morning business for 10 minutes; then that Senator AKAKA be recognized to speak on an amendment, which he intends to offer, and which we will do everything we can to make in order tomorrow; and then that Senator MURRAY be recognized for 10 minutes as in morning business.

Mr. MCCAIN. Mr. President, reserving the right to object, and I will not object, it is also my understanding then that at the beginning of business tomorrow we will be taking up the Kyl amendment and the Bayh either second degree or side-by-side, with 2 hours equally divided.

Mr. LEVIN. No. The UC, I believe, as it reads, is that we will take up the Kyl amendment tomorrow, with a possible second degree or side-by-side; and then after they are disposed of, then we would go to the Lieberman amendment and a second degree or a side-by-side amendment of Senator BAYH.

Mr. LIEBERMAN. On the alternate engine.

Mr. LEVIN. On the alternate engine.

Mr. MCCAIN. So we would be taking up the Kyl amendment first, and then——

Mr. LEVIN. Then a possible second degree or side-by-side to Kyl. Then, after the disposition of Kyl and any side-by-side or second degree, we would move to the Lieberman amendment on alternate engines, with a Bayh second degree or side-by-side.

Mr. MCCAIN. And there are time agreements on both amendments?

Mr. LEVIN. We do not have a time agreement yet on any of the amendments. We hope in the morning to have time agreements. But we did not have the language available for any—we did not have either the second-degree amendment language or the side-by-side available, so your side was unable, understandably, to agree to a time agreement.

Mr. MCCAIN. Once the other sides of these amendments are aware of the side-by-side, then it is our intention to have an hour or two equally divided, and then move on to pending amendments.

Mr. LEVIN. If it is not already agreed to, I think there was an understanding on the Lieberman and on the Bayh amendments there would be an hour for each.

Mr. LIEBERMAN. That is fine.

Mr. LEVIN. We need the language before that can be agreed to. But that is the understanding or intent.

Mr. MCCAIN. I thank the chairman. I think that clears up what our plans are for a good part of tomorrow.

Mr. LEVIN. There will be no more votes tonight.

The PRESIDING OFFICER. Is there any objection to the speaker order?

Without objection, it is so ordered.

The Senator from Colorado.

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

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

SOTOMAYOR NOMINATION

Mr. UDALL of Colorado. Mr. President, 28 years ago my father, former Congressman from Arizona, Morris Udall, took the long walk from the House of Representatives to come to the Senate. The divide that separates the two great Chambers of Congress sometimes struck my father as deeper and wider than the Grand Canyon of Arizona, but he crossed over that day because he had a mission. He came to testify before the Senate Judiciary Committee on behalf of a fellow Arizonan Sandra Day O'Connor—the first woman to serve as a U.S. Supreme Court Justice.

My father, who was often at odds with ideologues of every stripe, noted she was ''clearly conservative,'' but he also spoke of her ''great judicial temperament'' and her disposition to always put justice ahead of partisanship.

Justice O'Connor proved to be an outstanding member of the Court, and my father never regretted his decision to support her nomination.

A generation later, I am honored to stand here today to voice my strong support for the first Hispanic woman nominated for the U.S. Supreme Court—Sonia Sotomayor.

Judge Sotomayor's story is truly the quintessential example of the American dream. The daughter of Puerto Rican parents who moved to New York City at a time when racial and ethnic prejudice was widespread, she lost her father at age 9. Her extraordinary mother worked hard to provide an example of striving in the best sense of that word. Sonia Sotomayor took that example to Princeton, Yale Law School, the Manhattan District Attorney's Office, and as a Federal judge.

It is no wonder the Hispanic community is proud of this nomination and has shown an outpouring of support for Judge Sotomayor. I was moved personally to learn that Hispanic citizens from across the country traveled to Washington, DC, and stood in line for hours in order to be in the audience for her confirmation hearings.

Former Colorado State Senator Polly Baca was one of those who traveled from Colorado. As a friend of the Sotomayor family, Polly's reaction mirrored many others when she said that the judge is ''just brilliant.'' ''Some people viewed her as a bit of a nerd,'' Senator Baca said, ''because she worked so hard, studied so hard. And she's led her life that way. . . .'' ''She is who she is,'' Senator Baca concluded. This historic nomination is not only a source of pride for Hispanic Americans, but for all of us. That is because we all take heart and experience pride when we hear of a fellow American who overcomes great obstacles and does good through hard work and perseverance.

Let me quote the Greeley Tribune out on our eastern plains in my home State of Colorado. The Tribune wrote:

> This is, instead, a celebration of the growth of our democracy . . . it is important that we recognize her nomination for what it is: a signpost on the unending road toward a more perfect union.

The Framers of the Constitution specifically outlined the advise and consent role of the Senate regarding nominations. This is one of our most solemn duties as Senators, the importance of which cannot be overstated. I take this responsibility very seriously. The Supreme Court is the highest Court in our land. Once it rules on a case, that holding and rule become the law of the land. The Presiding Officer, as the former attorney general of Illinois, knows that to be the case. The men and women we send to serve there make decisions and render judgments that can chart our destiny, literally, as a people.

So an inspiring life story is not the only or even the most compelling reason to confirm Judge Sotomayor. What matters most? Her qualifications for the job, her record, and her approach to the Constitution.

Last week my colleagues on the Senate Judiciary Committee began the confirmation proceedings for Judge Sotomayor and examined her record. During those hearings, the judge handled herself with grace and poise. She answered tough questions and clearly demonstrated her commitment to the law and the Constitution.

Out on the west slope of our great State of Colorado, we have the city of Grand Junction. The Daily Sentinel, that city's newspaper, stated last week: ''Sotomayor is unquestionably qualified.'' And I agree.

There is no doubt that she is superbly qualified to be our next Supreme Court Justice. As a Federal trial judge, in addition to her more recent experience on the court of appeals, Judge Sotomayor brings more experience as a judge to the job of serving on the Supreme Court than anyone currently serving on the Court.

In addition, the judge received a ''well-qualified'' rating from the American Bar Association. This is the highest rating from the ABA, notable because it is given by Judge Sotomayor's peers.

Judge Sotomayor has received endorsements from a variety of organizations, ranging from law enforcement and sportsmen and hunters, to legal and higher education professionals.

The Framers of the Constitution anticipated the importance of having an independent and duty-bound judiciary. Alexander Hamilton, in the Federalist Papers, noted that:

> To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules and precedents, which serve to define and point out their duty in every particular case that comes before them. . . .

From her record, it is unmistakable that Judge Sotomayor has demonstrated a commitment to precedent and the rule of law, as Mr. Hamilton described it. During her confirmation hearings, she said:

> As a judge, I do not make the law . . . judges must apply the law.

Some have raised the question whether Judge Sotomayor is a ''liberal activist'' because of her involvement on the board of the Puerto Rican Legal Defense and Education Fund. But Judge Sotomayor's role and involvement has not been in directing legal opinions from this organization, but it has been directed instead at encouraging Puerto Rican youth to pursue careers in the legal profession.

According to her record, she has participated in 434 published panel decisions where there was at least one judge appointed by a Republican President. Despite notions to the contrary, she has agreed with the result favored by the Republican appointee 95 percent of the time. What does that demonstrate? Well, it demonstrates that Judge Sotomayor does not have an ideological bias but that she is a moderate jurist.

I also wish to acknowledge another alleged controversy Judge Sotomayor's critics have seized upon as a reason to oppose her confirmation; that is, her so-called ''wise Latina'' remarks in which the judge waxed not so eloquently on her hopes that she might draw special wisdom and insight from her personal experience. Judge Sotomayor herself has acknowledged the clumsiness of her language. If anything in her record suggested a special bias or prejudice, these words might be evidence of a larger problem, but that is simply not borne out in a review of her record on the bench. Nor did her decision on the Ricci case strike me as evidence of activist bias so much as it was a case of deference for judicial precedent. It strikes me as particularly unfair for Judge Sotomayor's critics to assail her for social activism when there is little, if any, evidence of that in her record, and they also used the Ricci case as an example. Frankly, I think the judge's opinions consistently show judicial restraint, respect for established legal precedent, and deference to the policymaking role of the elected branches—even when it leads to a result that may be unpopular or different from her personal opinion.

After I had a chance to meet with Judge Sotomayor, I came away with the opinion that she possesses the temperament, the qualifications, and the experience to meet the challenges of serving at the highest level on the Supreme Court.

I also appreciated that she acknowledged one of the most important issues to the livelihood of westerners: water. She surprised me when she said that all of the questions surrounding water may be among the most challenging legal controversies we face in the next 25 to 50 years. We did not have a conversation about the specific legal issues that might emerge around water, energy, or public lands in the West, but what I saw was a reassuring appreciation for the unique problems of our region and an intellectual curiosity to match it.

So as I conclude, I have reviewed Judge Sotomayor's impressive judicial record. I have watched and listened carefully to her answers during her confirmation hearing and met with her in person. Like Justice Sandra Day O'Connor, I believe she is poised to make history. I am proud to support her nomination, and I would encourage my colleagues in the Senate to do likewise.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, I ask unanimous consent that after the remarks of the Senator from Hawaii, the Senate go into a period of morning business, with Senator MURRAY to be recognized first for 10 minutes and other Members of the body permitted to speak for up to 10 minutes each.

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

The Senator from Hawaii is recognized.

AMENDMENT NO. 1522

Mr. AKAKA. Mr. President, I rise to speak on amendment No. 1522 to S. 1390. I understand there is not yet an agreement to consider the amendment, but I am hopeful there will be one soon.

Amendment No. 1522 would enhance the retirement security of Federal employees and address inequities in the system. As chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I am proud to join with Senators COLLINS, LIEBERMAN, VOINOVICH, MURKOWSKI, BEGICH, KOHL, MIKULSKI, CARDIN, INOUYE, WEBB, and WARNER in this bipartisan amendment.

Each of these revisions is much needed and has been thoroughly debated by the appropriate committees in the House and Senate. Many of the changes were requested by the administrators of the retirement plans and are strongly supported by many organizations. The list of supporters is too long to read here, but it includes every major Federal employee union; postal unions, supervisors, and postmasters; the Federal Law Enforcement Officers Association, and several government managers groups.

Most important to my home State of Hawaii, the amendment provides retirement equity to Federal employees in Hawaii, Alaska, and the territories. More than 23,000 Federal employees in Hawaii, including more than 17,000 Defense Department employees and another 30,000 Federal employees in Alaska and the territories, currently receive a cost-of-living allowance which is not taxed and does not count for retirement. Because of this, workers in the nonforeign areas retire with significantly lower annuities than their counterparts in the 48 States and DC. COLA rates are scheduled to go down later this year, along with the pay of nearly 50,000 Federal employees if we do not provide this fix.

In 2007, I introduced the Non-Foreign Area Retirement Equity Assurance Act. The bill passed the Senate by unanimous consent in October 2008. Unfortunately, the House did not have time to consider the bill before adjournment.

I reintroduced S. 507, which is included in the amendment, with Senators MURKOWSKI, INOUYE, and BEGICH. It is nearly identical to the bill that passed the Senate last year. It is a bipartisan effort to transition employees in Hawaii, Alaska, and the territories to the same locality pay system used in the rest of the United States while protecting employees' take-home pay. The measure passed unanimously through the committee on April 1, 2009.

The second provision I wish to highlight corrects how employees' annuities are calculated for part-time service under the Civil Service Retirement System. This provision removes a disincentive that now discourages Federal employees near retirement from working on a part-time basis while phasing into retirement. It would treat Federal employees under CSRS the same way they are treated under the newer Federal Employee Retirement System.

The third provision I wish to discuss would allow FERS participants to apply their unused sick leave to their length of service for computing their retirement annuities as is done for CSRS employees. The Congressional Research Service found that FERS employees within 2 years of retirement eligibility used 25 percent more sick leave than similarly situated CSRS employees. OPM also found that the disparity in sick leave usage costs the Federal Government approximately $68 million in productivity each year. This solution was proposed by Federal managers who wanted additional tools to build a more efficient and productive workplace and to provide employees with an incentive not to use sick leave unnecessarily near retirement.

Finally, I wish to add that this amendment will make good on the recruitment promise made to a small group of Secret Service agents. Approximately 180 Secret Service agents and officers hired from 1984 through 1986 were promised access to the DC Police and Firefighter Retirement and Disability System. This amendment is meant to provide narrow and specific relief only to this small group of agents and officers by allowing them to access the retirement system they were promised at the time they were hired.

I strongly encourage my colleagues to support this amendment, the Federal retirement reform provisions, and the bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

MORNING BUSINESS

HEALTH CARE REFORM

Mrs. MURRAY. Mr. President, if you look at the front cover of newspapers across the country this week or watch cable news each day, it is pretty clear that the rhetoric on health care reform is really heating up. Whether it is threats from the other side of the aisle to ''break'' a President who has made health care reform a priority or whether it is the million-dollar ad buys from interest groups we are seeing or whether it is political pundits, health care rhetoric is reaching a fever pitch. In fact, the discourse here in Washington, DC, has gotten so loud that the voice of American families is being drowned out.

These days, those who need reform the most are the ones being heard from the least. That is why 3 weeks ago I sent an e-mail to many of my constituents asking them to share with me their personal stories of dealing with our health care system and asking them for their ideas for reform. So far, I have received in just a few short weeks over 5,000 e-mails into my office with deeply personal and often very painful stories from every corner of my State. Yesterday, I came to the floor to share several of those stories. They were the stories of women who had lost their insurance, and due to an inability to get care when they needed it most, they lost their lives. Many of the letters I have received, such as those I spoke about yesterday, tug at the heart strings. But today, this evening, I wish to talk about what so many Americans are concerned about right now: their purse strings.

I understand many Americans are satisfied with the level of care their insurance provides. These are the Americans who can get in to see a doctor when they need one, and they receive good, quality care. These are the Americans who want to know what is in it for them: What will I get out of reform? And with all of their other problems, why should we pay for it right now? These are good questions to which the American people deserve a good answer.

It is not just the uninsured who are impacted by not being able to access preventive medicine or having to seek costly care in the emergency room. These costs get passed on to those with insurance in the form of higher insurance premiums. In fact, it is estimated that a family of four today here in this country is paying an added $1,000 in premiums a year to help pay for those who don't have any coverage. Essentially, families with health insurance today are paying a hidden tax. That tax is hurting our families who are insured, it is hurting our businesses, and it has to end.

Health care reform will do that. By creating a competitive pool of insurance options, including a public option, we can bring down the costs and the premiums to families in the long run. We are going to be moving to a system that rewards innovation and healthy outcomes, and because Americans will have a choice of insurance plans, insurance providers will be forced to lower costs so they can be competitive.

The existence of a pool of insurers to choose from means that if you lose your job, you don't lose your insurance. If you want to change jobs or maybe even start a business, there is a health care option for you. And we make it easier for small businesses to provide coverage for their employees by having them pay for up to half the cost of health insurance for businesses with 50 or fewer workers. Accordingly, we also prohibit insurance companies from charging higher premiums for women or for the elderly, and we end the practice of denying coverage to those people with preexisting conditions. And for the first time, we put a priority on prevention and wellness. If we invest in community-based programs to improve nutrition or prevent smoking or increase fitness, we are going to save taxpayers nearly $16 billion a year within 5 years.

So health care reform, when we talk about it here, will make health care coverage more affordable, portable, and undeniable.

Let me give a real-life example of someone who has health insurance today but would benefit greatly from the health care reform we are talking about. One of the letters I recently received is from Patricia Jackson, who lives in Woodinville, WA. I suspect her story will sound pretty familiar to most Americans.

Patricia and her family have private insurance that is paid for each month through premiums that come directly out of Patricia's paycheck. But as is the case with many middle-class families, the burden of those premium payments is rapidly rising. To provide care for her family of four, Patricia paid $840 a month in 2007. Then last year her payments jumped to $900 a month. Today she is paying $1,186 in premiums to provide care for her family every month.

Unfortunately, for too many families, Patricia's story isn't the exception, it is the rule. It is exactly what they are seeing in their homes with their premiums.

Health insurance premiums for working families in Washington State have

skyrocketed in recent years. In fact, according to a study by Families USA, from 2000 to 2007, premiums increased by 86.6 percent.

Let me say that again. Over an 8-year period, premiums in my home State of Washington increased by 86.6 percent. But over that same period of time, wages in my State only grew by 16 percent.

Health care premiums are taking a bigger and bigger chunk out of families' paychecks. Health insurance premiums rose over five times faster than median earnings, and that problem is not going away.

For a lot of our average middle-class families who are struggling to make mortgage payments or to send their kids to college today, this is a situation that cannot continue. They can't afford it. If we don't have meaningful health care reform, it is a trend that is going to continue indefinitely.

This reform can't come a moment too soon. Two weeks ago, Patricia's—who I just talked about—insurance company, which is the largest private insurance company in my home State, announced another dramatic increase in premium. They told Patricia, and a lot of other families in my State, that starting on August 1, this company is going to raise premiums for 135,000 enrollees by an average of 17 percent more—17 percent more from what I just told you.

A front-page story in the Seattle Times, the day after that hike was announced, quoted Gail Petersen, who lives in north Seattle, who says that news means her premiums are going to rise by $300. She said:

> I would love to see insurance companies have a little competition.

So would Patricia Jackson. In fact, Patricia recently contacted my office again to let me know that, starting on August 1, her new premiums will be over $1,400 a month. That is unaffordable. It is unsustainable for Patricia, for America's families, for our businesses, and for America's future economic strength.

Health care reform isn't just for the uninsured, it is for people such as Patricia and Gail and the millions of others who have health insurance right now, who have played by the rules, but whose paychecks and futures are being gouged by a system that lacks accountability, lacks competition, and lacks reason.

Unfortunately, we are hearing from some of our friends on the other side who want to prevent meaningful, comprehensive reform from ever moving forward.

Just as unfortunate are their motives. We heard a Member of our Senate say he wants to protect the status quo. He said:

> If we are able to stop Obama on this, it will be his Waterloo, it will break him.

Mr. President, that type of posturing is playing games with real lives and real people in order to score cheap political points. Blocking health care reform won't break the President of the United States of America, but it will break American families, it will break American businesses; it will break the bank.

America deserves better. Congress knows that most Americans like their doctors, their providers, and their coverage. On the days they need to see a doctor, they are glad they can provide their families with coverage for booster shots, checkups, preventive, and even emergency care. But on payday, it is a very different story.

For those of our colleagues who ask how we can afford to pay for this, I want to tell them to ask Patricia Jackson—or any of their constituents—because the real question is: How can we afford not to? Especially at a time when the economy is struggling and the costs of care are rising, we need to do everything we can to rein in those costs, prevent people from losing their coverage and having to seek more expensive care in our emergency rooms.

Tonight we will hear from our President. He knows that doing nothing is not an option. The time is right, the time is now. Patricia, her family, and the millions of hard-working, taxpaying Americans across the country simply cannot wait any longer.

I urge our Senate colleagues to set aside the rhetoric and begin to look at the issues and help us solve this problem so we can move this forward.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. REID. I now ask that morning business be closed.

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010—Continued

Mr. REID. Mr. President, what is the pending business?

The PRESIDING OFFICER. S. 1390, the Defense Department authorization bill.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 89, S. 1390, the National Defense Authorization for Fiscal Year 2010.

Carl Levin, Harry Reid, Barbara Boxer, Mark Udall, Jack Reed, Jon Tester, Jeanne Shaheen, Al Franken, Evan Bayh, Patrick J. Leahy, Richard J. Durbin, Byron L. Dorgan, Daniel K. Inouye, Blanche L. Lincoln, Joseph I. Lieberman, Ron Wyden, Mary L. Landrieu.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

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

Mr. REID. Mr. President, this week, we are considering important legislation to authorize spending for the Department of Defense. Among the many activities supported by this funding are our efforts to fight al-Qaida, the Taliban, and other terrorist groups around the world and prevent another terrorist attack on our country.

The bill includes funding for a number of key priorities relating to our fight against terrorists. It provides $130 billion to fund our efforts in Afghanistan and Iraq. Afghanistan remains the front line in the battle against terrorism, as it provides a haven for thousands of Taliban and al-Qaida fighters. And, as U.S. troops pull back from Iraqi cities, our mission in that country will increasingly focus on counterterrorism. It funds a number of key initiatives to enhance the safety of our troops and our citizens from terrorist threats, including funding for detecting and defeating improvised explosive devices, or IEDs. It funds some of our most important efforts to prevent unsecured nuclear material from falling into the hands of terrorists. It expands the size of our Special Operations Forces—the elite commando units like Navy SEALs and Army Green Berets—who lead this Nation's global ground fight against terrorism.

While the Special Operations Forces provide us a unique and unsurpassed capability, they are hardly the only group of Americans on the front lines of this fight. The Special Operations Forces are part of one of three key groups of people in our government who play a critical role in this fight. Military service members, who are fighting house-to-house, street-to-street, and village to village in Iraq and Afghanistan to identify and eliminate terrorists and insurgents. Members of the Foreign Service and USAID who, in addition to carrying out our Nation's diplomacy, are working with local leaders to build governing capacity, improve essential services, and foster economic growth. And members of our Nation's intelligence agencies, who provide the vital information we need both to keep these other public servants out of harm's way and to take the fight to the terrorists.

I want to pause for a moment to recognize and commend their tremendous service to our Nation. The courage, endurance, and sacrifice they exhibit on a

daily basis exemplify the highest values of our great Nation. And while our country has made great strides in honoring the contribution of our military service members, many of our diplomats and intelligence personnel consistently demonstrate their patriotism and commitment with hardly any public recognition.

I would like to especially honor the men and women of our Nation's intelligence services. The U.S. intelligence community has been under fire in recent weeks. The recent controversy is not over whether the CIA has done enough to go after bin Laden, or about whether it has done its job effectively. It is about whether senior leaders in the Bush administration mismanaged and misrepresented a particular program. That is an important question that our Intelligence Committee will seek to answer, but it should not call into question the distinguished service of the officers who continue to do a remarkable job for our country.

I have seen first hand some of the military and intelligence officers who are hunting Osama bin Laden and other terrorists. CIA and Air Force personnel are working around the clock, 24 hours a day, supporting the missions of Predator and Reaper unmanned aerial vehicles. Their work is a clear example of military and intelligence personnel making a significant difference in protecting the safety of American citizens on a daily basis.

According to press reports, since January 1, 2008, UAVs have carried out more than 50 separate strikes against terrorists and insurgents in the Afghanistan-Pakistan border region, killing more than 300 terrorists and insurgents, including over 15 top leaders of the Taliban and al-Qaida. In addition, press reports indicate UAVs have also conducted surveillance and reconnaissance missions that have been critical in identifying and tracking targets for strikes by other military assets. In Nevada and around the world, members of our Armed Forces, intelligence services, and foreign services are on the front lines of our fight against terrorism. It is a fight we will win thanks to their dedication and sacrifice. As we continue debate on the Fiscal Year 2010 Defense Authorization Act, I urge my colleagues to join me in recognizing and commending their tremendous service to our Nation.

Mr. KYL. Mr. President, I rise in support of an amendment to be offered by my good friend, the Senator from Connecticut, Mr. LIEBERMAN.

The purpose of this amendment is straightforward: it seeks to make sure that the missile defense system deployed in Europe is as cost-effective and as capable of protecting the United States as the installation of ground-based midcourse defense missile defense interceptors and early warning radars proposed by the last administration; that proposal was endorsed by the NATO alliance and embraced by the governments of Poland and the Czech Republic.

This system is important not just because it provides the U.S. with a much needed defense against the long-range ballistic missile threat of Iran, but also because of what it says about the alliance between the United States and these two countries. It is significant that Poland and the Czech Republic, which spent the better part of the 20th century as oppressed satellites of the Soviet Union have so earnestly sought to align themselves with the United States to confront the threats of the 21st century.

This deployment is clearly in U.S. interests. The Congressional Budget Office, CBO, recently concluded a study of the options—current and future—to protect the U.S. and its allies from the Iranian threat. The results of that study were clear: only the Polish and Czech deployments can protect the United States and Europe; any other option costs more and defends the U.S. less, if at all.''[1]

Let me quote from this CBO study, ''Options for Deploying Missile Defenses in Europe'':

> Of the modeled options, MDA's proposed European system would provide the most extensive defense of the United States, covering the entire continental United States against liquid-fuel ICBMs and covering all of the threatened portion of the continental United States plus part of Alaska against solid-fuel ICBMs.[2]

The reason for this deployment is plain: the STRATCOM and EUCOM Commanders said to Congress in a July 24, 2008 letter:

> We are in complete agreement that Europe requires a layered defense enabled by a robust network of sensors in and a credible interceptor capability. Iran's actions last week illustrate the imperative for credible global missile defenses. We cannot wait to counter a long-range, WMD-capable, Iranian missile threat. Deploying missile defenses in Europe would demonstrate our resolve to deter this threat and protect our nation and allies by providing a critical capability to the warfighter.
>
> As Combatant Commanders responsible for both United States military operations in the European theater (EUCOM) and global missile defense plans, operations, and capability (STRATCOM), our best military advice leads us to strongly endorse the President's funding request for European missile defense sites. These capabilities remain critical to defending America and our allies in Europe and for deterring our adversaries today and in the future.[3]

That is why I am a cosponsor and supporter of the Lieberman amendment.

ENDNOTES

[1] CBO study, ''Options for Deploying Missile Defenses in Europe.'' Pg. xv. (February 2009). (Quoting CBO: ''Overall, CBO estimates, Option 1 would cost between $9 billion and $13 billion; Option 2, between $18 billion and $22 billion; Option 3, between $9 billion and $13 billion; and Option 4, between $10 billion and $14 billion. (Those and other cost estimates in this report are in 2009 dollars.)'')

[2] CBO, pg. 37. (Quoting the CBO study: ''Option 4, with its Kinetic Energy Interceptors, would also provide substantial added coverage of the United States, particularly against solid-fuel ICBMs. The systems using SM–3 Block IIA interceptors (Options 2 and 3) offer the least additional defense of the United States: almost none against solid-fuel ICBMs and coverage of only parts of the northeastern (and, in the case of Option 2, central) United States against liquid fuel ICBMs.'')

[3] General Kevin P. Chilton and General Bantz J. Craddock. Letter to Senator Robert C. Byrd. 14 July 2008.

Mr. KYL. Mr. President, I ask unanimous consent to have printed in the RECORD the following documents: (1) an open letter to the Obama administration from leading Europeans, including Lech Walesa and Vaclav Havel, who warn in strong terms that the so-called U.S.-Russia reset must not come at the expense of mutual interests between the U.S. and the nations of central and eastern Europe; (2) a recent New York Times article, ''Eastern Europe Is Uneasy Over U.S. Ties with Russia''; and (3) an op-ed from yesterday's Washington Post, ''A Letter From Europe: U.S. leadership in the post-Soviet age is needed to face new challenges.''

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

[July 15, 2009]

AN OPEN LETTER TO THE OBAMA ADMINISTRATION FROM CENTRAL AND EASTERN EUROPE

(By Valdas Adamkus, Martin Butora, Emil Constantinescu, Pavol Demes, Lubos Dobrovsky, Matyas Eorsi, Istvan Gyarmati, Vaclav Havel, Rastislav Kacer, Sandra Kalniete, Karel Schwarzenberg, Michal Kovac, Ivan Krastev, Alexander Kwasniewski, Mart Laar, Kadri Liik, Janos Martonyi. Janusz Onyszkiewicz, Adam Rotfeld, Vaira Vike-Freiberga, Alexandr Vondra, Lech Walesa.)

We have written this letter because, as Central and Eastern European (CEE) intellectuals and former policymakers, we care deeply about the future of the transatlantic relationship as well as the future quality of relations between the United States and the countries of our region. We write in our personal capacity as individuals who are friends and allies of the United States as well as committed Europeans.

Our nations are deeply indebted to the United States. Many of us know firsthand how important your support for our freedom and independence was during the dark Cold War years. U.S. engagement and support was essential for the success of our democratic transitions after the Iron Curtain fell twenty years ago. Without Washington's vision and leadership, it is doubtful that we would be in NATO and even the EU today.

We have worked to reciprocate and make this relationship a two-way street. We are Atlanticist voices within NATO and the EU. Our nations have been engaged alongside the United States in the Balkans, Iraq, and today in Afghanistan. While our contribution may at times seem modest compared to your own, it is significant when measured as a percentage of our population and GDP. Having benefited from your support for liberal democracy and liberal values in the past, we have been among your strongest supporters when it comes to promoting democracy and human rights around the world.

Twenty years after the end of the Cold War, however, we see that Central and Eastern European countries are no longer at the heart of American foreign policy. As the new Obama Administration sets its foreign-policy priorities, our region is one part of the world that Americans have largely stopped worrying about. Indeed, at times we have the impression that U.S. policy was so successful that many American officials have now concluded that our region is fixed once and for all and that they could ''check the box'' and move on to other more pressing strategic issues. Relations have been so close that many on both sides assume that the region's transatlantic orientation, as well as its stability and prosperity, would last forever.

That view is premature. All is not well either in our region or in the transatlantic relationship. Central and Eastern Europe is at a political crossroads and today there is a growing sense of nervousness in the region. The global economic crisis is impacting on our region and, as elsewhere, runs the risk that our societies will look inward and be less engaged with the outside world. At the same time, storm clouds are starting to gather on the foreign policy horizon. Like you, we await the results of the EU Commission's investigation on the origins of the Russo-Georgian war. But the political impact of that war on the region has already been felt. Many countries were deeply disturbed to see the Atlantic alliance stand by as Russia violated the core principles of the Helsinki Final Act, the Charter of Paris, and the territorial integrity of a country that was a member of NATO's Partnership for Peace and the Euroatlantic Partnership Council—all in the name of defending a sphere of influence on its borders.

Despite the efforts and significant contribution of the new members, NATO today seems weaker than when we joined. In many of our countries it is perceived as less and less relevant—and we feel it. Although we are full members, people question whether NATO would be willing and able to come to our defense in some future crises. Europe's dependence on Russian energy also creates concern about the cohesion of the Alliance. President Obama's remark at the recent NATO summit on the need to provide credible defense plans for all Alliance members was welcome, but not sufficient to allay fears about the Alliance's defense readiness. Our ability to continue to sustain public support at home for our contributions to Alliance missions abroad also depends on us being able to show that our own security concerns are being addressed in NATO and close cooperation with the United States

We must also recognize that America's popularity and influence have fallen in many of our countries as well. Public opinions polls, including the German Marshall Fund's own Transatlantic Trends survey, show that our region has not been immune to the wave of criticism and anti-Americanism that has swept Europe in recent years and which led to a collapse in sympathy and support for the United States during the Bush years. Some leaders in the region have paid a political price for their support of the unpopular war in Iraq. In the future they may be more careful in taking political risks to support the United States. We believe that the onset of a new Administration has created a new opening to reverse this trend but it will take time and work on both sides to make up for what we have lost.

In many ways the EU has become the major factor and institution in our lives. To many people it seems more relevant and important today than the link to the United States. To some degree it is a logical outcome of the integration of Central and Eastern Europe into the EU. Our leaders and officials spend much more time in EU meetings than in consultations with Washington, where they often struggle to attract attention or make our voices heard. The region's deeper integration in the EU is of course welcome and should not necessarily lead to a weakening of the transatlantic relationship. The hope was that integration of Central and Eastern Europe into the EU would actually strengthen the strategic cooperation between Europe and America.

However, there is a danger that instead of being a pro-Atlantic voice in the EU, support for a more global partnership with Washington in the region might wane over time. The region does not have the tradition of assuming a more global role. Some items on the transatlantic agenda, such as climate change, do not resonate in the Central and Eastern European publics to the same extent as they do in Western Europe.

Leadership change is also coming in Central and Eastern Europe. Next to those, there are fewer and fewer leaders who emerged from the revolutions of 1989 who experienced Washington's key role in securing our democratic transition and anchoring our countries in NATO and EU. A new generation of leaders is emerging who do not have these memories and follow a more ''realistic'' policy. At the same time, the former Communist elites, whose insistence on political and economic power significantly contributed to the crises in many CEE countries, gradually disappear from the political scene. The current political and economic turmoil and the fallout from the global economic crisis provide additional opportunities for the forces of nationalism, extremism, populism, and anti-Semitism across the continent but also in some other countries.

This means that the United States is likely to lose many of its traditional interlocutors in the region. The new elites replacing them may not share the idealism—or have the same relationship to the United States—as the generation who led the democratic transition. They may be more calculating in their support of the United States as well as more parochial in their world view. And in Washington a similar transition is taking place as many of the leaders and personalities we have worked with and relied on are also leaving politics.

And then there is the issue of how to deal with Russia. Our hopes that relations with Russia would improve and that Moscow would finally fully accept our complete sovereignty and independence after joining NATO and the EU have not been fulfilled. Instead, Russia is back as a revisionist power pursuing a 19th-century agenda with 21st-century tactics and methods. At a global level, Russia has become, on most issues, a status-quo power. But at a regional level and vis-a-vis our nations, it increasingly acts as a revisionist one. It challenges our claims to our own historical experiences. It asserts a privileged position in determining our security choices. It uses overt and covert means of economic warfare, ranging from energy blockades and politically motivated investments to bribery and media manipulation in order to advance its interests and to challenge the transatlantic orientation of Central and Eastern Europe.

We welcome the ''reset'' of the American-Russian relations. As the countries living closest to Russia, obviously nobody has a greater interest in the development of the democracy in Russia and better relations between Moscow and the West than we do. But there is also nervousness in our capitals. We want to ensure that too narrow an understanding of Western interests does not lead to the wrong concessions to Russia. Today the concern is, for example, that the United States and the major European powers might embrace the Medvedev plan for a ''Concert of Powers'' to replace the continent's existing, value-based security structure. The danger is that Russia's creeping intimidation and influence-peddling in the region could over time lead to a de facto neutralization of the region. There are differing views within the region when it comes to Moscow's new policies. But there is a shared view that the full engagement of the United States is needed.

Many in the region are looking with hope to the Obama Administration to restore the Atlantic relationship as a moral compass for their domestic as well as foreign policies. A strong commitment to common liberal democratic values is essential to our countries. We know from our own historical experience the difference between when the United States stood up for its liberal democratic values and when it did not. Our region suffered when the United States succumbed to ''realism'' at Yalta. And it benefited when the United States used its power to fight for principle. That was critical during the Cold War and in opening the doors of NATO. Had a ''realist'' view prevailed in the early 1990s, we would not be in NATO today and the idea of a Europe whole, free, and at peace would be a distant dream.

We understand the heavy demands on your Administration and on U.S. foreign policy. It is not our intent to add to the list of problems you face. Rather, we want to help by being strong Atlanticist allies in a U.S.-European partnership that is a powerful force for good around the world. But we are not certain where our region will be in five or ten years time given the domestic and foreign policy uncertainties we face. We need to take the right steps now to ensure the strong relationship between the United States and Central and Eastern Europe over the past twenty years will endure.

We believe this is a time both the United States and Europe need to reinvest in the transatlantic relationship. We also believe this is a time when the United States and Central and Eastern Europe must reconnect around a new and forward-looking agenda. While recognizing what has been achieved in the twenty years since the fall of the Iron Curtain, it is time to set a new agenda for close cooperation for the next twenty years across the Atlantic.

Therefore, we propose the following steps:

First, we are convinced that America needs Europe and that Europe needs the United States as much today as in the past. The United States should reaffirm its vocation as a European power and make clear that it plans to stay fully engaged on the continent even while it faces the pressing challenges in Afghanistan and Pakistan, the wider Middle East, and Asia. For our part we must work at home in our own countries and in Europe more generally to convince our leaders and societies to adopt a more global perspective and be prepared to shoulder more responsibility in partnership with the United States.

Second, we need a renaissance of NATO as the most important security link between the United States and Europe. It is the only credible hard power security guarantee we have. NATO must reconfirm its core function of collective defense even while we adapt to the new threats of the 21st century. A key factor in our ability to participate in NATO's expeditionary missions overseas is the belief that we are secure at home. We must therefore correct some self-inflicted wounds from the past. It was a mistake not to commence with proper Article 5 defense planning for new members after NATO was enlarged. NATO needs to make the Alliance's commitments credible and provide strategic reassurance to all members. This should include contingency planning, prepositioning of forces, equipment, and supplies for reinforcement in our region in case of crisis as

originally envisioned in the NATO-Russia Founding Act.

We should also re-think the working of the NATO-Russia Council and return to the practice where NATO member countries enter into dialogue with Moscow with a coordinated position. When it comes to Russia, our experience has been that a more determined and principled policy toward Moscow will not only strengthen the West's security but will ultimately lead Moscow to follow a more cooperative policy as well. Furthermore, the more secure we feel inside NATO, the easier it will also be for our countries to reach out to engage Moscow on issues of common interest. That is the dual track approach we need and which should be reflected in the new NATO strategic concept.

Third, the thorniest issue may well be America's planned missile-defense installations. Here too, there are different views in the region, including among our publics which are divided. Regardless of the military merits of this scheme and what Washington eventually decides to do, the issue has nevertheless also become—at least in some countries—a symbol of America's credibility and commitment to the region. How it is handled could have a significant impact on their future transatlantic orientation. The small number of missiles involved cannot be a threat to Russia's strategic capabilities, and the Kremlin knows this. We should decide the future of the program as allies and based on the strategic plusses and minuses of the different technical and political configurations. The Alliance should not allow the issue to be determined by unfounded Russian opposition. Abandoning the program entirely or involving Russia too deeply in it without consulting Poland or the Czech Republic can undermine the credibility of the United States across the whole region.

Fourth, we know that NATO alone is not enough. We also want and need more Europe and a better and more strategic U.S.-EU relationship as well. Increasingly our foreign policies are carried out through the European Union—and we support that. We also want a common European foreign and defense policy that is open to close cooperation with the United States. We are the advocates of such a line in the EU. But we need the United States to rethink its attitude toward the EU and engage it much more seriously as a strategic partner. We need to bring NATO and the EU closer together and make them work in tandem. We need common NATO and EU strategies not only toward Russia but on a range of other new strategic challenges.

Fifth is energy security. The threat to energy supplies can exert an immediate influence on our nations' political sovereignty also as allies contributing to common decisions in NATO. That is why it must also become a transatlantic priority. Although most of the responsibility for energy security lies within the realm of the EU, the United States also has a role to play. Absent American support, the Baku-Tbilisi-Ceyhan pipeline would never have been built. Energy security must become an integral part of U.S.-European strategic cooperation. Central and Eastern European countries should lobby harder (and with more unity) inside Europe for diversification of the energy mix, suppliers, and transit routes, as well as for tough legal scrutiny of Russia's abuse of its monopoly and cartel-like power inside the EU. But American political support on this will play a crucial role. Similarly, the United States can play an important role in solidifying further its support for the Nabucco pipeline, particularly in using its security relationship with the main transit country, Turkey, as well as the North-South interconnector of Central Europe and LNG terminals in our region.

Sixth, we must not neglect the human factor. Our next generations need to get to know each other, too. We have to cherish and protect the multitude of educational, professional, and other networks and friendships that underpin our friendship and alliance. The U.S. visa regime remains an obstacle in this regard. It is absurd that Poland and Romania—arguably the two biggest and most pro-American states in the CEE region, which are making substantial contributions in Iraq and Afghanistan—have not yet been brought into the visa waiver program. It is incomprehensible that a critic like the French anti-globalization activist Jose Bove does not require a visa for the United States but former Solidarity activist and Nobel Peace prizewinner Lech Walesa does. This issue will be resolved only if it is made a political priority by the President of the United States.

The steps we made together since 1989 are not minor in history. The common successes are the proper foundation for the transatlantic renaissance we need today. This is why we believe that we should also consider the creation of a Legacy Fellowship for young leaders. Twenty years have passed since the revolutions of 1989. That is a whole generation. We need a new generation to renew the transatlantic partnership. A new program should be launched to identify those young leaders on both sides of the Atlantic who can carry forward the transatlantic project we have spent the last two decades building in Central and Eastern Europe.

In conclusion, the onset of a new Administration in the United States has raised great hopes in our countries for a transatlantic renewal. It is an opportunity we dare not miss. We, the authors of this letter, know firsthand how important the relationship with the United States has been. In the 1990s, a large part of getting Europe right was about getting Central and Eastern Europe right. The engagement of the United States was critical to locking in peace and stability from the Baltics to the Black Sea. Today the goal must be to keep Central and Eastern Europe right as a stable, activist, and Atlanticist part of our broader community.

That is the key to our success in bringing about the renaissance in the Alliance the Obama Administration has committed itself to work for and which we support. That will require both sides recommitting to and investing in this relationship. But if we do it right, the pay off down the road can be very real. By taking the right steps now, we can put it on new and solid footing for the future.

[From the New York Times, July 17, 2009]

EASTERN EUROPE IS UNEASY OVER U.S. TIES WITH RUSSIA

(By Nicholas Kulish)

BERLIN.—The deep concern among America's Eastern European allies over improved relations between Russia and the United States spilled into the open on Thursday when 22 prominent figures, including Poland's Lech Walesa and the Czech Republic's Vaclav Havel, published an open letter to the Obama administration begging not to be forgotten.

In the letter, the leaders urged President Obama and his top policy makers to remember their interests as they negotiate with Russia and review plans for missile defense bases in Poland and the Czech Republic. Abandoning the missile defense plan or giving Russia too big a role in it could ''undermine the credibility of the United States across the whole region,'' the letter said.

The letter was published on the Web site of the Polish newspaper Gazeta Wyborcza and was signed by former presidents, like Mr. Walesa and Mr. Havel, as well as other former heads of state, top diplomats and intellectuals from a broad range of countries, including Hungary, Bulgaria and Estonia.

''Our region is one part of the world that Americans have largely stopped worrying about,'' the letter said, even though ''all is not well either in our region or in the trans-Atlantic relationship.''

While the letter covered a range of issues, including the dangers presented to the young democracies in the region by the economic crisis, Russia was clearly central to the worries expressed by the drafters.

''There is the fear among Central and Eastern Europeans that our interest in keeping the trans-Atlantic bond could be somehow sold out to the relationship with Russia,'' Alexandr Vondra, a former minister of foreign affairs for the Czech Republic, said in a telephone interview from Washington.

Expressing concerns about the growing weakness of NATO, the leaders said that Mr. Obama's call at the recent NATO summit for ''credible defense plans for all Alliance members was welcome, but not sufficient to allay fears about the Alliance's defense readiness.''

As geostrategic interests from Afghanistan to Iran to North Korea have demanded Russian logistical or diplomatic assistance, anxiety has risen among the states known collectively as New Europe. Russia's invasion of Georgia last August only intensified those fears, as much through the American response as through Russia's own actions.

''The Georgia war exposed that there is a limit to what the United States will or can do to respond to military conflict in the neighborhood,'' said Angela E. Stent, who served as the top Russia officer at the United States government's National Intelligence Council until 2006 and now directs Russian studies at Georgetown University.

She added that the intentions of the administration toward its allies were not yet completely clear. ''Until now, we've heard a Russian policy but not a policy for Russia's neighborhood,'' Ms. Stent said.

The economic crisis masked these tensions for a while, but the problems never really went away in these countries, where Russia is seen as ''a revisionist power pursuing a 19th-century agenda with 21st-century tactics and methods,'' according to the letter, and where any warming of relations between Washington and Moscow raises hackles. Mr. Obama's trip to Moscow last week did nothing to reassure nervous allies in Eastern Europe.

''We all understand that a deal must come with Russia, but we do not believe that a deal can be made at the expense of the security interests of the countries of our region or of Georgia and Ukraine,'' said Eugeniusz Smolar, senior fellow at the Center for International Relations, a nonprofit, nonpartisan research group in Warsaw.

There is also a sense among many analysts and politicians in the region that the new administration does not understand Russia's true nature that friendly words from the Russian leadership when Mr. Obama is in Moscow are just words, while events like the murder of a Russian human rights campaigner on Wednesday showed the true state of Russia's civil society.

The former leaders also warned about threats within their own countries and across Europe, driven by the economic crisis, which had provided ''opportunities for the forces of nationalism, extremism, populism and anti-Semitism,'' according to the letter.

''Domestically these countries used to be led by idealistic leaders. That's still the case in some of these countries, but not all,'' said Kadri Liik, director of the International Center for Defense Studies in Tallinn, Estonia, who was among the drafters of the letter.

[From the Washington Post, July 19, 2009]

A LETTER FROM EUROPE—U.S. LEADERSHIP IN THE POST-SOVIET AGE IS NEEDED TO FACE NEW CHALLENGES

Twenty years have passed since the revolutions that restored freedom to what had been the captive nations of Central and Eastern Europe. That many Americans no longer give much thought to that part of the world testifies, in part, to the region's success. The eastward expansion of NATO and the European Union helped bring security, stability and growing prosperity; more important, the countries themselves have nurtured democratic and free-market institutions that in 1989 would have seemed unreachable.

Yet an impressive collection of former presidents and ministers from the first two decades of post-communism warn, in a letter released last week, that long-lasting success should not be assumed. ''All is not well either in our region or in the transatlantic relationship,'' they caution. Since the signatories are staunch allies of the United States and of democracy—ranging from Vaclav Havel and Alexandr Vondra of the Czech Republic to Lech Walesa and Alexander Kwasniewski of Poland to Vaira Vike-Freiberga of Latvia and Valdas Adamkus of Lithuania—they merit a hearing.

The global recession has given room to ''nationalism, extremism, populism, and anti-Semitism'' in some of their countries, the former leaders acknowledge. At the same time, they say, ''NATO today seems weaker than when we joined'' while ''Russia is back as a revisionist power pursuing a 19th-century agenda with 21st-century tactics and methods. . . . The danger is that Russia's creeping intimidation and influence-peddling in the region could over time lead to a de facto neutralization of the region.''

In response, they say, the Obama administration should recommit to NATO as a defense alliance, not just an expeditionary force with duties in Afghanistan and beyond. It should support pipelines that will diminish the region's dependence on Russian oil and gas. It should take care, as it evaluates planned missile-defense installations in Poland and the Czech Republic that Russia opposes, to consult closely with the governments that have the most at stake. It should invest in relationships with younger generations that do not remember communism or the struggle against it.

None of this will come as news to President Obama, who has made clear, in Moscow and elsewhere, that the United States will not recognize a privileged Russian sphere of influence in the former Soviet Union or Warsaw Pact. Vice President Biden, who first delivered that message for the administration in a speech in Munich in February, presumably will reiterate it during his upcoming visit to Ukraine and Georgia. The administration nonetheless should take the letter to heart, not as a rebuke but as encouragement. Nations clamoring for a stronger U.S relationship, built on the ideals of freedom and alliance, are not so numerous that Washington can afford to take them for granted.

Mr. FEINGOLD. Mr. President, I voted against Senator LIEBERMAN's amendment to immediately authorize a significant increase in the size of the Army because I did not believe it was in the best interest of our troops or our national security. There is an incredible strain on the force right now, including multiple deployments and insufficient dwell time, due to our failure to promptly and fully redeploy from Iraq. Rather than spending billions of dollars to increase the size of the Army, we should promptly redeploy from Iraq so that we can focus on the global threat posed by al-Qaida and so that we can reduce the strain on our troops. Indeed, the Iraqi Government has asked us to remove our troops from Iraqi cities, and as a result many U.S. servicemembers, including Wisconsin soldiers, are sitting on their bases with no mission.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR STAR PRINT—S. 1474

Mr. REID. Mr. President, I ask unanimous consent that S. 1474 be star printed with the changes at the desk.

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

ORDERS FOR THURSDAY, JULY 23, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, July 23; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of Calendar No. 89, S. 1390, which is the Department of Defense authorization bill.

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

PROGRAM

Mr. REID. Mr. President, for the information of all Senators, the filing deadline for first-degree amendments to the Defense authorization bill is 1 p.m. tomorrow.

Senators should expect rollcall votes throughout the day as we work through amendments to the bill.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, I ask unanimous consent that following the remarks of Senator DODD, the Senate adjourn under the previous order.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

COMMENDING WOMEN AIRFORCE PILOTS

Mr. BROWNBACK. Mr. President, today I am honored to recognize an exceptional group of women who served in World War II. When their country needed them, they answered the call and chartered a bold new course for women in the military. Sixty-seven years ago, over 1,000 courageous women became the first in United States history trained to fly an American military aircraft. These women are known as the Women Airforce Service Pilots, the WASPs. Today we offer them our sincere admiration and deepest thanks.

These women came to be known as the ''Fly Girls.'' They were patriots, they were pioneers, but above all they were pilots. They flew the same planes as their male counterparts, learned the same skills, and served the same country. They were among the first to fly the B–26 Martin Marauder and the B–29 Super Fortress. The Fly Girls, however, served as civilians rather than as members of the Armed Forces. Civilian status prevented the Fly Girls from being recognized with their military counterparts. And the 38 brave women who died during their service were not honored with flag-draped caskets, nor could their families hang gold stars in their windows.

Today we pause to recognize these women and their families with an honor that is long overdue and much deserved. I am proud to have been a cosponsor of S. 614, which authorized the awarding of the Congressional Gold Medal to the Women Airforce Service Pilots of World War II. This bill sailed through Congress in 3 months and on July 1, 2009, President Barack Obama signed Public Law 111–40, granting the highest civilian award to this deserving group of women.

I am particularly proud of the Kansas women who served in this unique military force. Today we honor all those Kansas WASPs who have gone before us and recognize the two surviving Kansas WASPs, Meriem Anderson of Eureka, KS, and Marjorie Rees of Prairie Village, KS.

The WASPs have never asked for our praise. When Rees was asked how she felt about being overlooked for so many years she simply responded, ''We didn't resent that we were ignored so long. We've thought for years how very lucky we were to fly those wonderful airplanes.'' Her words express a quiet heroism, and remind us that the noblest act of sacrifice is the one that expects nothing in return. The accomplishments of these women, and the manner in which they have continued to conduct their lives, is a testament to their remarkable character. The thanks and recognition we offer them today pales in comparison to the gift they have given us—freedom.

Their strength has inspired many other women to also look to the skies. MAJ Gina Sabric, an F–16 fighter pilot, voiced her appreciation to the WASPs when she said, ''Women in aviation has definitely been a stepping-

stone progression, one that the WASPs started. Without them, it would have been a longer, tougher road. They set the stage for the rest of us to be able to continue what they started.''

On behalf of myself, the State of Kansas, and the people of this great country, I wish to express my sincerest thanks to all of the WASPs for their brave and patriotic service in World War II. We are truly a grateful Nation.

Mr. THUNE. Mr. President, today I recognize Ola Mildred ''Millie'' Rexroat and the six other women from South Dakota who served honorably during World War II as members of the Women Airforce Service Pilots, WASPs.

More than 1,000 women answered the call and served as pilots during World War II. Because WASPs records were classified and archived for over 30 years, WASPs have been left out of much of the documented history of World War II.

On July 1, 2009, legislation was signed into law that honors the service of these women with the Congressional Gold Medal, which is given in honor of outstanding service to the United States and is one of the nation's highest civilian awards. This Congressional Gold Medal finally gives these women the honor they deserve.

Between 1942 and 1944, the 1,102 women of WASP were trained in Texas, and then went on to fly noncombat domestic military missions so all their male counterparts could be deployed to combat. WASPs were required to complete the same primary, basic, and advanced training courses as male Army Air Corps pilots, and many went on to specialized flight training. By the conclusion of the war, WASPs logged 60 million miles of flying in every kind of military aircraft.

Following the war, the WASPs were disbanded and the women pilots paid their own way home without pomp or circumstance. Even during the war, the families of the 38 women who died in the line of duty were responsible for the costs to transport their bodies and arrange burials. It was not until 1977 that the WASPs were granted veterans' status.

Ms. Rexroat is the last surviving member of the WASPs living in South Dakota, and she is believed to be the only female Native American to serve as a member of the WASPs in World War II.

Ms. Rexroat spent part of her childhood living with her grandmother at Vetal, SD. She graduated from St. Mary's Indian High School for Girls in Springfield, SD. After college, she graduated from WASPs training in the ''1944–7'' class on September 8, 1944, at Sweetwater, TX. She then spent 4 months towing targets for students behind a T6 plane at Eagle Pass Army Airfield, TX.

Ms. Rexroat is 91 years old and still lives independently in Edgemont, SD. Her vivid memories of her service are inspiring, and I am proud to have cosponsored the bill to provide these women the Congressional Gold Medal and recognize their service here on the floor of the Senate today.

While five of the other women are no longer with us, I would like to posthumously recognize the other women who joined from South Dakota: Helen (Anderson) Severson of Summit, SD, who was killed in service during a flight training accident in 1943; Marjorie (Redding) Christiansen of Mystic, SD; Loes (Monk) MacKenzie of Salem, SD; Laurine Nielsen of Deadwood, SD; and Maxine (Nolt) Wright DeHaven of Sioux Falls, SD. I would also like to recognize Violet (Thurn) Cowden formerly of Bowdle, SD.

35TH YEAR OF THE DIVISION AND OCCUPATION OF CYPRUS

Ms. SNOWE. Mr. President, I rise in commemoration of a deeply tragic anniversary for the Cypriot-American community, their friends and relatives in Cyprus, and for the respect of human rights and international law. Thirty-five years ago this week, the armed forces of Turkey violated the sovereignty and territory of the Republic of Cyprus by illegally invading and occupying the north of the island state.

The international community, speaking through resolution after resolution by the United Nations Security Council and General Assembly, has since 1974 called for an end to the division of Cyprus and the return of refugees to their homes. Yet three and a half decades later, the military occupation of one third of our close and consistent ally's territory by Turkey remains an intolerable reality.

There are more than 43,000 Turkish troops on Cyprus—that is approximately one Turkish soldier for every two Turkish Cypriots. The occupation, expropriation, transfer and destruction of Greek Cypriot-owned property in the north of the island proceeds unabated. Indeed, an estimated 7,000 to 10,000 U.S. citizens of Cypriot descent have claims to such properties. So too continues the wanton desecration of Greek Orthodox churches and religious artifacts that are not only sacred to hundreds of millions of faithful believers, but beautiful and historic sites and objects of inherent cultural value to all of humanity.

Despite a generation of suffering such injustices, the Greek Cypriot community continues to demonstrate remarkable magnanimity in seeking a fair solution to the division of the island. Like many Hellenic-Americans, I applauded Cypriot President Demetris Cristofias' effort to restart the process of reuniting the island by directly engaging the Turkish Cypriot leadership. Although little progress has been made toward resolving the most significant issues—most notably the disposition of Greek Cypriots' property and the presence of Turkish troops—after 36 meetings in ten months of direct negotiations, President Cristofias remains committed to continuing his talks with Turkish Cypriot leader Mehmet Ali Talat.

An additional cause for hope came this past April, when the European Court of Justice ruled that a judgment of a court in the Republic of Cyprus must be recognized and enforced by the other EU member states even if it concerns land situated in the Turkish occupied areas of Cyprus. This ruling confirms the international right of Greek Cypriots who were forced from their property by the Turkish occupation to seek relief against those who later made use of the property illegally, providing not only a measure of justice to those able to pursue such a claim, but providing valuable leverage to the Republic's government in resolving the overall property issue.

These developments should strengthen our commitment in Congress to ensuring that the United States stands by its steadfast ally, the Republic of Cyprus, to achieve a resolution to the tragic division of the island that is fair to Greek Cypriots. As was conclusively demonstrated by the wholly justified rejection of the Annan Plan by Greek Cypriots in 2004, the Cyprus question is one that can only be resolved through mutual agreement on a solution, not the imposition of one. In the context of the current talks, that means the United States must encourage Turkey to give the leader of the Turkish Cypriot community the leeway and authority to negotiate a solution that is truly in the interests of the communities on the island, rather than seeking to continue its military presence.

The vocal support of the United States for a fair, freely negotiated outcome between the communities is as much a moral as it is a geopolitical necessity, given that it is not just the rights of the Greek Cypriot community that are at stake, but our solemn role as a nation that champions human rights and adherence to the rule of law. I therefore urge my colleagues to join me today in bearing witness to the 35 years of injustice wreaked upon the people of the Republic of Cyprus, and in recommitting ourselves to the urgent task of fairly and finally reuniting the island.

ADDITIONAL STATEMENTS

COMMENDING DUDLEY SPOONAMORE

• Mr. BUNNING. Mr. President, I wish to congratulate and recognize a distinguished Kentuckian, Dudley Spoonamore, a Boyle County High School teacher, who was recently named the 2009 Kentucky Engineering and Technology Education Teacher of the Year.

The Kentucky Engineering and Technology Education Teacher of the Year award, bestowed by the Kentucky Engineering and Technology Education Association Leadership Committee as well as fellow Technology Education

teachers from across the Commonwealth of Kentucky, is the highest honor given to State educators in the field of technology education. Each year it is awarded to individuals who provide exceptional learning opportunities in the area of technology education to students and professionals.

Students in Mr. Spoonamore's engineering and technology lab are exposed to an innovative and hands-on approach to teaching engineering design principles. Building a robot, assembling electrical circuits, and experimenting with CO_2 cars in wind tunnels are just an example of what Mr. Spoonamore's students participate in each school year.

This month, Mr. Spoonamore will be honored at the Kentucky Association for Career and Technical Education Leadership and Learning Conference in Louisville, KY.

Additionally, Mr. Spoonamore is a recipient of this year's Teacher Excellence Award by the International Technology Education Association, which was presented to only 39 individuals across the United States.

Mr. Spoonamore has proven himself to be an exemplary teacher, changing the way teachers teach and how students learn. He is an inspiration to the citizens of Kentucky and to teachers everywhere. I wish him luck on all of his future endeavors.●

REMEMBERING CLAUDE ''T'' MOORMAN

● Mr. LUGAR. Mr. President, today, Wednesday, July 22, Claude ''T'' Moorman II is being put to rest at Arlington National Cemetery. ''T'' was a remarkable scholar, athlete and physician who served his Nation with honor during the Vietnam war.

Born August 21, 1939, in Roanoke, VA, ''T'' grew up in Miami, FL, where he excelled in football, receiving both All State and All American honors while playing at Miami High School; ''T'' was a popular student who was elected student body president.

''T'' attended Duke University on a football scholarship. He served as a class officer and played football for legendary coach Bill Murray. ''T'' caught the much celebrated game winning touchdown in the 1961 Cotton Bowl, and he was elected to the All American Team. ''T'' Moorman is a member of Duke University's Athletic Hall of Fame, and in addition he was named one of Florida's All-Time Top 100 Football Players and Duke's Top 50 Athletes of the Century.

But athletic prowess is not why we honor Claude ''T'' Moorman II today at Arlington National Cemetery and here in the Senate. It is, of course, for his service to our Nation that ''T'' warrants our praise and respect.

After the cheers of Saturday college football games died down for ''T,'' he continued his education at Duke University Medical School, completing his degree in 1966 and training under another Duke legend, Dr. Lenox Baker, this time in the field of Orthopedics. In 1970, he volunteered for medical service in Vietnam, caring for our wounded soldiers. Those who called ''T'' a friend know it was this experience that shaped the character of ''T'' Moorman, and it is this service that makes ''T'' the true all- American that he was and that we honor today. ''T'' Moorman continued to serve with our military for 28 years.

Upon his return from Vietnam, ''T'' finished anesthesiology training at Emory, followed by a law degree from William and Mary in 1979. He then served with the Army Department of Legal Medicine Armed Forces Institute of Pathology in Washington DC. Before retiring from the U.S. Army Reserves in 1998, Colonel Moorman commanded multiple U.S. Army Reserve units. Additionally, during this time he opened anesthesiology centers in Leesburg, VA, Stuart, FL, and Port St. Lucie, FL.

During the last decade of ''T''s life he fulfilled a lifelong dream of farming in Washington County, NC.

By making the choice to serve in the military during a time of war, a decision which demands and deserves our respect, those in the medical service make a choice to help their fellow man in the most difficult of situations—combat. ''T'' showed through action part of what comprised his character, morality, and strong passion for helping fellow Americans. Having been an All American Football player in college, ''T'' could have played professional football had he chosen that route. Instead, ''T'' made the most of his college career to obtain not only his undergraduate degree but additionally two medical degrees and a law degree. I think that this is an exemplary model of what a college athlete might strive to become. America certainly benefitted from ''T''s choices.

COL Claude ''T'' Moorman II will be remembered and missed by so many of the soldiers that he mended and friends and family that he humored. He will be forever celebrated and his legacy will never be forgotten.●

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 12:23 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1622. An act to provide for a program of research, development, and demonstration on natural gas vehicles.

H.R. 1933. An act to direct the Attorney General to make an annual grant to the A Child is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

H.R. 2632. An act to amend title 4, United States Code, to encourage the display of the flag of the United States on National Korean War Veterans Armistice Day.

H.R. 2729. An act to authorize the designation of National Environmental Research Parks by the Secretary of Energy, and for other purposes.

H. J. Res. 56. Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 30. Concurrent resolution commending the Bureau of Labor Statistics on the occasion of its 125th anniversary.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 123. Concurrent resolution recognizing the historical and national significance of the many contributions of John William Heisman to the sport of football.

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Schiff (manager on the part of the House in the matter of impeachment of Samuel B. Kent), announced that it has agreed to the resolution (H. Res. 661) resolving that the managers on the part of the House of Representatives in the impeachment proceedings now pending in the Senate against Samuel B. Kent, formerly judge of the United States District Court for the Southern District of Texas, are instructed to appear before the Senate, sitting as a court of impeachment for those proceedings, and advise the Senate that, because Samuel B. Kent is no longer a civil officer of the United States, the House of Representatives does not desire further to urge the articles of impeachment hitherto filed in the Senate against Samuel B. Kent.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 885. An act to elevate the Inspector General of certain Federal entities to an Inspector General appointed pursuant to section 3 of the Inspector General Act of 1978; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1622. An act to provide for a program of research, development, and demonstration on natural gas vehicles; to the Committee on Energy and Natural Resources.

H.R. 1933. An act to direct the Attorney General to make an annual grant to the A

Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes; to the Committee on the Judiciary.

H.R. 2729. An act to authorize the designation of National Environmental Research Parks by the Secretary of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 123. Concurrent resolution recognizing the historical and national significance of the many contributions of John William Heisman to the port of football; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–58. A resolution adopted by the Senate of the State of Louisiana urging Congress to address the escalating electronic payment interchange rates that merchants and consumers are assessed; to the Committee on Banking, Housing, and Urban Affairs.

POM–59. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress, the Governor of Louisiana, the Department of Economic Development, the Department of Agriculture and Forestry, and the Public Service Commission, to assist in putting wood to electricity projects on a commensurate funding and taxation level with wind and solar generated electricity; to the Committee on Energy and Natural Resources.

POM–60. A concurrent resolution adopted by the Senate of the State of Louisiana expressing continued support for the Coastal Restoration and Enhancement Through Science and Technology Program for its role in providing new research and scientific information for coastal restoration; to the Committee on Environment and Public Works.

POM–61. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to enact legislation to adjust the Federal Medical Assistance Percentage rules to ameliorate the unintended negative impact caused by the infusion of disaster relief funding, both in public and private, into Louisiana's and other state's economies following major disasters; to the Committee on Finance.

POM–62. A concurrent resolution adopted by the Senate of the State of Louisiana affirming Louisiana's sovereignty under the Tenth Amendment to the Constitution of the United States of America over all powers not otherwise enumerated and granted to the federal government by the Consitution of the United States of America.

POM–63. A concurrent resolution adopted by the Senate of the State of Louisiana urges Congress to adopt and submit to the states for ratification a proposed amendment to the Constitution of the United States to require a federal balanced budget; to the Committee on the Judiciary.

POM–64. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress and the Attorney General of the United States and the Federal Bureau of Prisons to refrain from sending detainees released or transferred from the facilities at Guantanamo Bay Detention Facility, Cuba to prisons in Louisiana; to the Committee on the Judiciary.

POM–65. A resolution adopted by the House of Representatives of the State of Louisiana urging Congress to establish an additional classification for airports; to the Committee on Commerce, Science, and Transportation.

POM–66. A resolution adopted by the Senate of the State of Louisiana urging Congress to establish an additional classification for airports; to the Committee on Commerce, Science, and Transportation.

POM–67. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to enact the Credit Card Accountability, Responsibility, and Disclosure Act; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. FEINSTEIN, from the Select Committee on Intelligence, without amendment:

S. 1494. An original bill to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 111–55).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 1064. A bill to amend the American Recovery and Reinvestment Act of 2009 to provide for enhanced State and local oversight of activities conducted under such Act, and for other purposes (Rept. No. 111–56).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 601. A bill to establish the Weather Mitigation Research Office, and for other purposes (Rept. No. 111–57).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 849. A bill to require the Administrator of the Environmental Protection Agency to conduct a study on black carbon emissions (Rept. No. 111–58).

S. 1498. An original bill to provide an extension of highway programs authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Rept. No. 111–59).

By Mr. DORGAN, from the Committee on Indian Affairs, without amendment:

S. 151. A bill to protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1496. An original bill to extend National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration authorizations funded by the Highway Trust Fund, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DODD for Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*Anthony W. Miller, of California, to be Deputy Secretary of Education.

*Thelma Melendez de Santa Ana, of California, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

*Harry R. Hoglander, of Massachusetts, to be a Member of the National Mediation Board for a term expiring July 1, 2011.

*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. LEAHY:

S. 1490. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. MCCAIN):

S. 1491. A bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits based upon stock option compensation expenses be consistent with accounting expenses shown in corporate financial statements for such compensation; to the Committee on Finance.

By Mr. REID (for Ms. MIKULSKI (for herself, Mr. BOND, Mrs. GILLIBRAND, Mr. MENENDEZ, Mr. BURR, and Ms. COLLINS)):

S. 1492. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL:

S. 1493. A bill to designate the current and future Department of Veterans Affairs Medical Center in Louisville, Kentucky, as the ''Robley Rex Department of Veterans Affairs Medical Center''; to the Committee on Veterans' Affairs.

By Mrs. FEINSTEIN:

S. 1494. An original bill to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; placed on the calendar.

By Mr. FRANKEN (for himself, Mr. ISAKSON, Ms. LANDRIEU, Mr. GRAHAM, Mr. BEGICH, and Mr. BROWN):

S. 1495. A bill to require the Secretary of Veterans Affairs to carry out a pilot program to assess the feasibility and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER:

S. 1496. An original bill to extend National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration authorizations funded by the Highway Trust Fund, and for other purposes; from the Committee on Commerce, Science, and Transportation; placed on the calendar.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 1497. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt bond

financing for fixed-wing emergency medical aircraft; to the Committee on Finance.

By Mrs. BOXER:

S. 1498. An original bill to provide an extension of highway programs authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; from the Committee on Environment and Public Works; placed on the calendar.

By Mrs. GILLIBRAND:

S. 1499. A bill to amend the Richard B. Russell National School Lunch Act to expand eligibility for free school meals to certain families in areas with greater than fair market rent; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. GILLIBRAND:

S. 1500. A bill to amend the Richard B. Russell National School Lunch Act to prohibit schools that participate in the Federal school meal programs from serving foods that contain trans fats derived from partially hydrogenated oils; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. MURRAY (for herself, Mr. CRAPO, and Ms. CANTWELL):

S. 1501. A bill to provide a Federal tax exemption for forest conservation bonds, and for other purposes; to the Committee on Finance.

By Mr. CASEY (for himself and Mr. ENZI):

S. 1502. A bill to establish a program to be managed by the Department of Energy to ensure prompt and orderly compensation for potential damages relating to the storage of carbon dioxide in geological storage units; to the Committee on Energy and Natural Resources.

By Mrs. GILLIBRAND:

S. 1503. A bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity and eating disorder prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER:

S. 1504. A bill to provide that Federal courts shall not dismiss complaints under rule 12(b)(6) or (e) of the Federal Rules of Civil Procedure, except under the standards set forth by the Supreme Court of the United States in Conley v. Gibson, 355 U.S. 41 (1957); to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Ms. COLLINS, Mr. DORGAN, and Mr. CRAPO):

S. Res. 220. A resolution supporting the designation of September as ''National Atrial Fibrillation Awareness Month'' and encouraging efforts to educate the public about atrial fibrillation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself, Mrs. FEINSTEIN, and Mr. ENSIGN):

S. Res. 221. A resolution expressing support for the goals and ideals of the first annual National Wild Horse and Burro Adoption Day taking place on September 26, 2009; to the Committee on Energy and Natural Resources.

By Mr. BURRIS:

S. Con. Res. 34. A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to honor the crew of the USS Mason DE–529 who fought and served during World War II; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 306

At the request of Mr. NELSON of Nebraska, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 306, a bill to promote biogas production, and for other purposes.

S. 433

At the request of Mr. UDALL of New Mexico, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 433, a bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a renewable electricity standard, and for other purposes.

S. 632

At the request of Mr. BAUCUS, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 726

At the request of Mr. SCHUMER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 726, a bill to amend the Public Health Service Act to provide for the licensing of biosimilar and biogeneric biological products, and for other purposes.

S. 781

At the request of Mr. ROBERTS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 781, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 796

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 796, a bill to modify the requirements applicable to locatable minerals on public domain land, and for other purposes.

S. 827

At the request of Mr. ROCKEFELLER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 827, a bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds.

S. 908

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 1039

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1039, a bill to provide grants for the renovation, modernization or construction of law enforcement facilities.

S. 1065

At the request of Mr. CASEY, the names of the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1112

At the request of Mr. DODD, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1112, a bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes.

S. 1273

At the request of Mr. DORGAN, the names of the Senator from New Mexico (Mr. UDALL) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 1273, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 1280

At the request of Mr. CORKER, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1280, a bill to authorize the Secretary of the Treasury to delegate management authority over troubled assets purchased under the Troubled Asset Relief Program, to require the establishment of a trust to manage assets of certain designated TARP recipients, and for other purposes.

S. 1352

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1352, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1402

At the request of Mr. MERKLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1402, a bill to amend the Internal Revenue Code of 1986 to increase the amount allowed as a deduction for start-up expenditures.

S. 1415

At the request of Mr. SCHUMER, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Iowa (Mr. GRASSLEY), the Senator from New Hampshire (Mr. GREGG), the Senator from Nebraska (Mr. JOHANNS), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. COBURN), the Senator from Indiana (Mr. LUGAR), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Montana (Mr. TESTER), the Senator from Idaho (Mr. CRAPO) and the Senator from Delaware (Mr. KAUFMAN) were added as cosponsors of S. 1415, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted, and for other purposes.

S. 1442

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1442, a bill to amend the Public Lands Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service-learning opportunities on public lands, establish a grant program for Indian Youth Service Corps, help restore the Nation's natural, cultural, historic, archaeological, recreational, and scenic resources, train a new generation of public land managers and enthusiasts, and promote the value of public service.

S.J. RES. 17

At the request of Mr. MCCONNELL, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S.J. Res. 17, supra.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. CON. RES. 25

At the request of Mr. MENENDEZ, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. Con. Res. 25, a concurrent resolution recognizing the value and benefits that community health centers provide as health care homes for over 18,000,000 individuals, and the importance of enabling health centers and other safety net providers to continue to offer accessible, affordable, and continuous care to their current patients and to every American who lacks access to preventive and primary care services.

S. CON. RES. 33

At the request of Mr. BURRIS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 33, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to honor the crew of the USS *Mason* DE–529 who fought and served during World War II.

S. RES. 71

At the request of Mr. WYDEN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 71, a resolution condemning the Government of Iran for its state-sponsored persecution of the Baha'i minority in Iran and its continued violation of the International Covenants on Human Rights.

S. RES. 200

At the request of Mr. UDALL of Colorado, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 200, a resolution designating September 12, 2009, as ''National Childhood Cancer Awareness Day''.

AMENDMENT NO. 1478

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 1478 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1501

At the request of Mr. BOND, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Kansas (Mr. ROBERTS) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 1501 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1514

At the request of Mr. SANDERS, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 1514 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1538

At the request of Mr. UDALL of New Mexico, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 1538 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1543

At the request of Mr. RISCH, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 1543 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1554

At the request of Mr. BURR, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 1554 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1601

At the request of Mr. NELSON of Nebraska, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 1601 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1618

At the request of Mr. THUNE, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Kentucky (Mr. BUNNING) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 1618 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1620

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 1620 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year

2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1627

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 1627 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1628

At the request of Mr. CARDIN, his name was added as a cosponsor of amendment No. 1628 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1633

At the request of Mr. GRAHAM, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of amendment No. 1633 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1634

At the request of Mr. MCCAIN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1634 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1636

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 1636 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1644

At the request of Mr. BROWNBACK, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 1644 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1653

At the request of Mr. CORNYN, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of amendment No. 1653 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1659

At the request of Mr. SANDERS, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 1659 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1661

At the request of Mr. KERRY, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 1661 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1670

At the request of Mr. MENENDEZ, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 1670 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1676

At the request of Mr. BEGICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 1676 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1677

At the request of Mr. BEGICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 1677 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 1490. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am pleased to reintroduce the Personal Data Privacy and Security Act. The recent and troubling cyber attack on U.S. Government computers is clear evidence that developing a comprehensive national strategy for data privacy and cybersecurity is one of the most challenging and important issues facing our nation. The Personal Data Privacy and Security Act will help to meet this challenge, by better protecting Americans from the growing threats of data breaches and identity theft.

When Senator SPECTER and I first introduced this bill 4 years ago, we had high hopes of bringing urgently needed data privacy reforms to the American people. Although the Judiciary Committee favorably reported this bill twice, in 2005 and again in 2007, the legislation languished on the Senate calendar and the Senate adjourned without passing comprehensive data privacy legislation.

While the Congress has waited to act, the dangers to our privacy, economic prosperity and national security posed by data breaches have not gone away. Just this week, the Government Accountability Office released a report finding that almost all of our major federal agencies have systemic weaknesses in the information security controls. According to the Privacy Rights Clearinghouse, more than 250 million records containing sensitive personal information have been involved in data security breaches since 2005.

This loss of privacy is not just a grave concern for American consumers; it is also a serious threat to the economic security of American businesses. The President's recent report on Cyberspace Policy Review noted that industry estimates of losses from intellectual property to data theft in 2008 range as high as $1 trillion.

The FBI's Internet Fraud Complaint Center also recently reported that

complaints of Internet fraud increased by 33 percent in 2008. These troubling reports are all compelling examples of why we need to promptly pass the Personal Data Privacy and Security Act.

Earlier this year, the Judiciary Committee held an important hearing on the privacy risks associated with electronic health records as the Nation moves towards a national health IT system. I am pleased that many of the privacy principles developed during that hearing have been enacted as part of the President's economic recovery package.

The Personal Data Privacy and Security Act requires that data brokers let consumers know what sensitive personal information they have about them, and to allow individuals to correct inaccurate information. The bill also requires that companies that have databases with sensitive personal information on Americans establish and implement data privacy and security programs.

In addition, the bill requires notice when sensitive personal information has been compromised. This bill also provides for tough criminal penalties for anyone who would intentionally and willfully conceal the fact that a data breach has occurred when the breach causes economic damage to consumers. Finally, the bill addresses the important issue of the government's use of personal data by requiring that federal agencies notify affected individuals when government data breaches occur, and placing privacy and security front and center when federal agencies evaluate whether data brokers can be trusted with government contracts that involve sensitive information about the American people.

Of course, Senator SPECTER and I have no monopoly on good ideas to solve the serious problems of identity theft and lax cybersecurity. But, we have put forth some meaningful solutions to this problem in this bill.

We have drafted this bill after long and thoughtful consultation with many of the stakeholders on this issue, including the privacy, consumer protection and business communities. We have also worked closely with other Senators, including Senators FEINSTEIN, FEINGOLD, and SCHUMER.

This is a comprehensive bill that not only deals with the need to provide Americans with notice when they have been victims of a data breach, but that also deals with the underlying problem of lax security and lack of accountability to help prevent data breaches from occurring in the first place. Passing this comprehensive data privacy legislation is one of my highest legislative priorities as Chairman of the Judiciary Committee, and I hope all Senators will support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1490

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Personal Data Privacy and Security Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

Sec. 101. Organized criminal activity in connection with unauthorized access to personally identifiable information.
Sec. 102. Concealment of security breaches involving sensitive personally identifiable information.
Sec. 103. Review and amendment of Federal sentencing guidelines related to fraudulent access to or misuse of digitized or electronic personally identifiable information.
Sec. 104. Effects of identity theft on bankruptcy proceedings.

TITLE II—DATA BROKERS

Sec. 201. Transparency and accuracy of data collection.
Sec. 202. Enforcement.
Sec. 203. Relation to State laws.
Sec. 204. Effective date.

TITLE III—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—A Data Privacy and Security Program

Sec. 301. Purpose and applicability of data privacy and security program.
Sec. 302. Requirements for a personal data privacy and security program.
Sec. 303. Enforcement.
Sec. 304. Relation to other laws.

Subtitle B—Security Breach Notification

Sec. 311. Notice to individuals.
Sec. 312. Exemptions.
Sec. 313. Methods of notice.
Sec. 314. Content of notification.
Sec. 315. Coordination of notification with credit reporting agencies.
Sec. 316. Notice to law enforcement.
Sec. 317. Enforcement.
Sec. 318. Enforcement by State attorneys general.
Sec. 319. Effect on Federal and State law.
Sec. 320. Authorization of appropriations.
Sec. 321. Reporting on risk assessment exemptions.
Sec. 322. Effective date.

Subtitle C—Office of Federal Identity Protection

Sec. 331. Office of Federal Identity Protection.

TITLE IV—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

Sec. 401. General services administration review of contracts.
Sec. 402. Requirement to audit information security practices of contractors and third party business entities.
Sec. 403. Privacy impact assessment of government use of commercial information services containing personally identifiable information.
Sec. 404. Implementation of chief privacy officer requirements.

SEC. 2. FINDINGS.

Congress finds that—

(1) databases of personally identifiable information are increasingly prime targets of hackers, identity thieves, rogue employees, and other criminals, including organized and sophisticated criminal operations;

(2) identity theft is a serious threat to the Nation's economic stability, homeland security, the development of e-commerce, and the privacy rights of Americans;

(3) over 9,300,000 individuals were victims of identity theft in America last year;

(4) security breaches are a serious threat to consumer confidence, homeland security, e-commerce, and economic stability;

(5) it is important for business entities that own, use, or license personally identifiable information to adopt reasonable procedures to ensure the security, privacy, and confidentiality of that personally identifiable information;

(6) individuals whose personal information has been compromised or who have been victims of identity theft should receive the necessary information and assistance to mitigate their damages and to restore the integrity of their personal information and identities;

(7) data brokers have assumed a significant role in providing identification, authentication, and screening services, and related data collection and analyses for commercial, nonprofit, and government operations;

(8) data misuse and use of inaccurate data have the potential to cause serious or irreparable harm to an individual's livelihood, privacy, and liberty and undermine efficient and effective business and government operations;

(9) there is a need to insure that data brokers conduct their operations in a manner that prioritizes fairness, transparency, accuracy, and respect for the privacy of consumers;

(10) government access to commercial data can potentially improve safety, law enforcement, and national security; and

(11) because government use of commercial data containing personal information potentially affects individual privacy, and law enforcement and national security operations, there is a need for Congress to exercise oversight over government use of commercial data.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) AGENCY.—The term ''agency'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ''affiliate'' means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ''business entity'' means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, or venture established to make a profit, or nonprofit.

(4) IDENTITY THEFT.—The term ''identity theft'' means a violation of section 1028 of title 18, United States Code.

(5) DATA BROKER.—The term ''data broker'' means a business entity which for monetary fees or dues regularly engages in the practice of collecting, transmitting, or providing access to sensitive personally identifiable information on more than 5,000 individuals who are not the customers or employees of that business entity or affiliate primarily for the purposes of providing such information to nonaffiliated third parties on an interstate basis.

(6) DATA FURNISHER.—The term ''data furnisher'' means any agency, organization,

corporation, trust, partnership, sole proprietorship, unincorporated association, or nonprofit that serves as a source of information for a data broker.

(7) ENCRYPTION.—The term ''encryption''—

(A) means the protection of data in electronic form, in storage or in transit, using an encryption technology that has been adopted by an established standards setting body which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(B) includes appropriate management and safeguards of such cryptographic keys so as to protect the integrity of the encryption.

(8) PERSONAL ELECTRONIC RECORD.—

(A) IN GENERAL.—The term ''personal electronic record'' means data associated with an individual contained in a database, networked or integrated databases, or other data system that is provided to nonaffiliated third parties and includes sensitive personally identifiable information about that individual.

(B) EXCLUSIONS.—The term ''personal electronic record'' does not include—

(i) any data related to an individual's past purchases of consumer goods; or

(ii) any proprietary assessment or evaluation of an individual or any proprietary assessment or evaluation of information about an individual.

(9) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United States Code.

(10) PUBLIC RECORD SOURCE.—The term ''public record source'' means the Congress, any agency, any State or local government agency, the government of the District of Columbia and governments of the territories or possessions of the United States, and Federal, State or local courts, courts martial and military commissions, that maintain personally identifiable information in records available to the public.

(11) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, acquisition of or access to sensitive personally identifiable information that is unauthorized or in excess of authorization.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(12) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes—

(A) an individual's first and last name or first initial and last name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Home address or telephone number.

(II) Mother's maiden name, if identified as such.

(III) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password that is required for an individual to obtain money, goods, services, or any other thing of value; or

(B) a financial account number or credit or debit card number in combination with any security code, access code, or password that is required for an individual to obtain credit, withdraw funds, or engage in a financial transaction.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

SEC. 101. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030(a)(2)(D) (relating to fraud and related activity in connection with unauthorized access to sensitive personally identifiable information as defined in the Personal Data Privacy and Security Act of 2009,'' before ''section 1084''.

SEC. 102. CONCEALMENT OF SECURITY BREACHES INVOLVING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1041. Concealment of security breaches involving sensitive personally identifiable information

''(a) Whoever, having knowledge of a security breach and of the obligation to provide notice of such breach to individuals under title III of the Personal Data Privacy and Security Act of 2009, and having not otherwise qualified for an exemption from providing notice under section 312 of such Act, intentionally and willfully conceals the fact of such security breach and which breach causes economic damage to 1 or more persons, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of subsection (a), the term 'person' has the same meaning as in section 1030(e)(12) of title 18, United States Code.

''(c) Any person seeking an exemption under section 312(b) of the Personal Data Privacy and Security Act of 2009 shall be immune from prosecution under this section if the United States Secret Service does not indicate, in writing, that such notice be given under section 312(b)(3) of such Act''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1041. Concealment of security breaches involving personally identifiable information.''.

(c) ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—The United States Secret Service shall have the authority to investigate offenses under this section.

(2) NONEXCLUSIVITY.—The authority granted in paragraph (1) shall not be exclusive of any existing authority held by any other Federal agency.

SEC. 103. REVIEW AND AMENDMENT OF FEDERAL SENTENCING GUIDELINES RELATED TO FRAUDULENT ACCESS TO OR MISUSE OF DIGITIZED OR ELECTRONIC PERSONALLY IDENTIFIABLE INFORMATION.

(a) REVIEW AND AMENDMENT.—The United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines (including its policy statements) applicable to persons convicted of using fraud to access, or misuse of, digitized or electronic personally identifiable information, including identity theft or any offense under—

(1) sections 1028, 1028A, 1030, 1030A, 2511, and 2701 of title 18, United States Code; and

(2) any other relevant provision.

(b) REQUIREMENTS.—In carrying out the requirements of this section, the United States Sentencing Commission shall—

(1) ensure that the Federal sentencing guidelines (including its policy statements) reflect—

(A) the serious nature of the offenses and penalties referred to in this Act;

(B) the growing incidences of theft and misuse of digitized or electronic personally identifiable information, including identity theft; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Federal sentencing guidelines (including its policy statements) adequately address violations of the sections amended by this Act to—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this Act;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves—

(A) the online sale of fraudulently obtained or stolen personally identifiable information;

(B) the sale of fraudulently obtained or stolen personally identifiable information to an individual who is engaged in terrorist activity or aiding other individuals engaged in terrorist activity; or

(C) the sale of fraudulently obtained or stolen personally identifiable information to finance terrorist activity or other criminal activities;

(6) make any necessary conforming changes to the Federal sentencing guidelines to ensure that such guidelines (including its policy statements) as described in subsection (a) are sufficiently stringent to deter, and adequately reflect crimes related to fraudulent access to, or misuse of, personally identifiable information; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission may, as soon as practicable, promulgate amendments under this section in accordance with procedures established in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that Act had not expired.

SEC. 104. EFFECTS OF IDENTITY THEFT ON BANKRUPTCY PROCEEDINGS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27B) as paragraph (27D); and

(2) by inserting after paragraph (27A) the following:

''(27) The term 'identity theft' means a fraud committed or attempted using the personally identifiable information of another person.

''(28) The term 'identity theft victim' means a debtor who, as a result of an identify theft in any consecutive 12-month period during the 3-year period before the date on which a petition is filed under this title, had claims asserted against such debtor in excess of the least of—

''(A) $20,000;

''(B) 50 percent of all claims asserted against such debtor; or

''(C) 25 percent of the debtor's gross income for such 12-month period.''.

(b) PROHIBITION.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following:

''(8) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an identity theft victim.''.

TITLE II—DATA BROKERS

SEC. 201. TRANSPARENCY AND ACCURACY OF DATA COLLECTION.

(a) IN GENERAL.—Data brokers engaging in interstate commerce are subject to the requirements of this title for any product or service offered to third parties that allows access or use of sensitive personally identifiable information.

(b) LIMITATION.—Notwithstanding any other provision of this title, this section shall not apply to—

(1) any product or service offered by a data broker engaging in interstate commerce where such product or service is currently subject to, and in compliance with, access and accuracy protections similar to those under subsections (c) through (f) of this section under the Fair Credit Reporting Act (Public Law 91–508);

(2) any data broker that is subject to regulation under the Gramm-Leach-Bliley Act (Public Law 106–102);

(3) any data broker currently subject to and in compliance with the data security requirements for such entities under the Health Insurance Portability and Accountability Act (Public Law 104–191), and its implementing regulations;

(4) information in a personal electronic record that—

(A) the data broker has identified as inaccurate, but maintains for the purpose of aiding the data broker in preventing inaccurate information from entering an individual's personal electronic record; and

(B) is not maintained primarily for the purpose of transmitting or otherwise providing that information, or assessments based on that information, to nonaffiliated third parties; and

(5) information concerning proprietary methodologies, techniques, scores, or algorithms relating to fraud prevention not normally provided to third parties in the ordinary course of business.

(c) DISCLOSURES TO INDIVIDUALS.—

(1) IN GENERAL.—A data broker shall, upon the request of an individual, disclose to such individual for a reasonable fee all personal electronic records pertaining to that individual maintained specifically for disclosure to third parties that request information on that individual in the ordinary course of business in the databases or systems of the data broker at the time of such request.

(2) INFORMATION ON HOW TO CORRECT INACCURACIES.—The disclosures required under paragraph (1) shall also include guidance to individuals on procedures for correcting inaccuracies.

(d) DISCLOSURE TO INDIVIDUALS OF ADVERSE ACTIONS TAKEN BY THIRD PARTIES.—

(1) IN GENERAL.—In addition to any other rights established under this Act, if a person takes any adverse action with respect to any individual that is based, in whole or in part, on any information contained in a personal electronic record that is maintained, updated, or otherwise owned or possessed by a data broker, such person, at no cost to the affected individual, shall provide—

(A) written or electronic notice of the adverse action to the individual;

(B) to the individual, in writing or electronically, the name, address, and telephone number of the data broker that furnished the information to the person;

(C) a copy of the information such person obtained from the data broker; and

(D) information to the individual on the procedures for correcting any inaccuracies in such information.

(2) ACCEPTED METHODS OF NOTICE.—A person shall be in compliance with the notice requirements under paragraph (1) if such person provides written or electronic notice in the same manner and using the same methods as are required under section 313(1) of this Act.

(e) ACCURACY RESOLUTION PROCESS.—

(1) INFORMATION FROM A PUBLIC RECORD OR LICENSOR.—

(A) IN GENERAL.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information disclosed to such individual under subsection (c) that is obtained from a public record source or a license agreement, such data broker shall determine within 30 days whether the information in its system accurately and completely records the information available from the licensor or public record source.

(B) DATA BROKER ACTIONS.—If a data broker determines under subparagraph (A) that the information in its systems does not accurately and completely record the information available from a public record source or licensor, the data broker shall—

(i) correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) provide such individual with the contact information of the public record or licensor.

(2) INFORMATION NOT FROM A PUBLIC RECORD SOURCE OR LICENSOR.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information not from a public record or licensor that was disclosed to the individual under subsection (c), the data broker shall, within 30 days of receiving notice of such dispute—

(A) review and consider free of charge any information submitted by such individual that is relevant to the completeness or accuracy of the disputed information; and

(B) correct any information found to be incomplete or inaccurate and provide notice to such individual of whether and what information was corrected, if any.

(3) EXTENSION OF REVIEW PERIOD.—The 30-day period described in paragraph (1) may be extended for not more than 30 additional days if a data broker receives information from the individual during the initial 30-day period that is relevant to the completeness or accuracy of any disputed information.

(4) NOTICE IDENTIFYING THE DATA FURNISHER.—If the completeness or accuracy of any information not from a public record source or licensor that was disclosed to an individual under subsection (c) is disputed by such individual, the data broker shall provide, upon the request of such individual, the contact information of any data furnisher that provided the disputed information.

(5) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) through (3), a data broker may decline to investigate or terminate a review of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or intended to perpetrate fraud.

(B) NOTICE.—A data broker shall notify an individual of a determination under subparagraph (A) within a reasonable time by any means available to such data broker.

SEC. 202. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) PENALTIES.—Any data broker that violates the provisions of section 201 shall be subject to civil penalties of not more than $1,000 per violation per day while such violations persist, up to a maximum of $250,000 per violation.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A data broker that intentionally or willfully violates the provisions of section 201 shall be subject to additional penalties in the amount of $1,000 per violation per day, to a maximum of an additional $250,000 per violation, while such violations persist.

(3) EQUITABLE RELIEF.—A data broker engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(b) FEDERAL TRADE COMMISSION AUTHORITY.—Any data broker shall have the provisions of this title enforced against it by the Federal Trade Commission.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the acts or practices of a data broker that violate this title, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this title; or

(C) obtain civil penalties of not more than $1,000 per violation per day while such violations persist, up to a maximum of $250,000 per violation.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Federal Trade Commission—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in subparagraph (A) before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Federal Trade Commission as soon after the filing of the complaint as practicable.

(3) FEDERAL TRADE COMMISSION AUTHORITY.—Upon receiving notice under paragraph (2), the Federal Trade Commission shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Federal Trade Commission has instituted a proceeding or civil action for a violation of this title, no attorney general of a State may, during the pendency of such proceeding or civil action, bring an action under this subsection against any defendant named in such civil action for any violation that is alleged in that civil action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a data broker for violation of any provision of this title.

SEC. 203. RELATION TO STATE LAWS.

No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 201, relating to individual access to, and correction of, personal electronic records held by data brokers.

SEC. 204. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act.

TITLE III—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—A Data Privacy and Security Program

SEC. 301. PURPOSE AND APPLICABILITY OF DATA PRIVACY AND SECURITY PROGRAM.

(a) PURPOSE.—The purpose of this subtitle is to ensure standards for developing and implementing administrative, technical, and physical safeguards to protect the security of sensitive personally identifiable information.

(b) IN GENERAL.—A business entity engaging in interstate commerce that involves collecting, accessing, transmitting, using, storing, or disposing of sensitive personally identifiable information in electronic or digital form on 10,000 or more United States persons is subject to the requirements for a data privacy and security program under section 302 for protecting sensitive personally identifiable information.

(c) LIMITATIONS.—Notwithstanding any other obligation under this subtitle, this subtitle does not apply to:

(1) FINANCIAL INSTITUTIONS.—Financial institutions—

(A) subject to the data security requirements and implementing regulations under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); and

(B) subject to—

(i) examinations for compliance with the requirements of this Act by a Federal Functional Regulator or State Insurance Authority (as those terms are defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)); or

(ii) compliance with part 314 of title 16, Code of Federal Regulations.

(2) HIPPA REGULATED ENTITIES.—

(A) COVERED ENTITIES.—Covered entities subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.), including the data security requirements and implementing regulations of that Act.

(B) BUSINESS ENTITIES.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 302 if the business entity is acting as a ''business associate'' as that term is defined in the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.) and is in compliance with requirements imposed under that Act and its implementing regulations.

(3) PUBLIC RECORDS.—Public records not otherwise subject to a confidentiality or nondisclosure requirement, or information obtained from a news report or periodical.

(d) SAFE HARBORS.—

(1) IN GENERAL.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 302 if the business entity complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of sensitive personally identifiable information involved in the ordinary course of business of such business entity.

(2) LIMITATION.—Nothing in this subsection shall be construed to permit, and nothing does permit, the Federal Trade Commission to issue regulations requiring, or according greater legal status to, the implementation of or application of a specific technology or technological specifications for meeting the requirements of this title.

SEC. 302. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—A business entity subject to this subtitle shall comply with the following safeguards and any other administrative, technical, or physical safeguards identified by the Federal Trade Commission in a rulemaking process pursuant to section 553 of title 5, United States Code, for the protection of sensitive personally identifiable information:

(1) SCOPE.—A business entity shall implement a comprehensive personal data privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the business entity and the nature and scope of its activities.

(2) DESIGN.—The personal data privacy and security program shall be designed to—

(A) ensure the privacy, security, and confidentiality of sensitive personally identifying information;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of sensitive personally identifying information; and

(C) protect against unauthorized access to use of sensitive personally identifying information that could result in substantial harm or inconvenience to any individual.

(3) RISK ASSESSMENT.—A business entity shall—

(A) identify reasonably foreseeable internal and external vulnerabilities that could result in unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information or systems containing sensitive personally identifiable information;

(B) assess the likelihood of and potential damage from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information;

(C) assess the sufficiency of its policies, technologies, and safeguards in place to control and minimize risks from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information; and

(D) assess the vulnerability of sensitive personally identifiable information during destruction and disposal of such information, including through the disposal or retirement of hardware.

(4) RISK MANAGEMENT AND CONTROL.—Each business entity shall—

(A) design its personal data privacy and security program to control the risks identified under paragraph (3); and

(B) adopt measures commensurate with the sensitivity of the data as well as the size, complexity, and scope of the activities of the business entity that—

(i) control access to systems and facilities containing sensitive personally identifiable information, including controls to authenticate and permit access only to authorized individuals;

(ii) detect actual and attempted fraudulent, unlawful, or unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information, including by employees and other individuals otherwise authorized to have access;

(iii) protect sensitive personally identifiable information during use, transmission, storage, and disposal by encryption, redaction, or access controls that are widely accepted as an effective industry practice or industry standard, or other reasonable means (including as directed for disposal of records under section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w) and the implementing regulations of such Act as set forth in section 682 of title 16, Code of Federal Regulations);

(iv) ensure that sensitive personally identifiable information is properly destroyed and disposed of, including during the destruction of computers, diskettes, and other electronic media that contain sensitive personally identifiable information ;

(v) trace access to records containing sensitive personally identifiable information so that the business entity can determine who accessed or acquired such sensitive personally identifiable information pertaining to specific individuals; and

(vi) ensure that no third party or customer of the business entity is authorized to access or acquire sensitive personally identifiable information without the business entity first performing sufficient due diligence to ascertain, with reasonable certainty, that such information is being sought for a valid legal purpose.

(b) TRAINING.—Each business entity subject to this subtitle shall take steps to ensure employee training and supervision for implementation of the data security program of the business entity.

(c) VULNERABILITY TESTING.—

(1) IN GENERAL.—Each business entity subject to this subtitle shall take steps to ensure regular testing of key controls, systems, and procedures of the personal data privacy and security program to detect, prevent, and respond to attacks or intrusions, or other system failures.

(2) FREQUENCY.—The frequency and nature of the tests required under paragraph (1) shall be determined by the risk assessment of the business entity under subsection (a)(3).

(d) RELATIONSHIP TO SERVICE PROVIDERS.—In the event a business entity subject to this subtitle engages service providers not subject to this subtitle, such business entity shall—

(1) exercise appropriate due diligence in selecting those service providers for responsibilities related to sensitive personally identifiable information, and take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the sensitive personally identifiable information at issue; and

(2) require those service providers by contract to implement and maintain appropriate measures designed to meet the objectives and requirements governing entities subject to section 301, this section, and subtitle B.

(e) PERIODIC ASSESSMENT AND PERSONAL DATA PRIVACY AND SECURITY MODERNIZATION.—Each business entity subject to this subtitle shall on a regular basis monitor, evaluate, and adjust, as appropriate its data privacy and security program in light of any relevant changes in—

(1) technology;

(2) the sensitivity of personally identifiable information;

(3) internal or external threats to personally identifiable information; and

(4) the changing business arrangements of the business entity, such as—

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to sensitive personally identifiable information systems.

(f) IMPLEMENTATION TIMELINE.—Not later than 1 year after the date of enactment of this Act, a business entity subject to the provisions of this subtitle shall implement a data privacy and security program pursuant to this subtitle.

SEC. 303. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 301 or 302 shall be subject to civil penalties of not more than $5,000 per violation per day while such a violation exists, with a maximum of $500,000 per violation.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 301 or 302 shall be subject to additional penalties in the amount of $5,000 per violation per day while such a violation exists, with a maximum of an additional $500,000 per violation.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law.

(b) FEDERAL TRADE COMMISSION AUTHORITY.—Any data broker shall have the provisions of this subtitle enforced against it by the Federal Trade Commission.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the acts or practices of a data broker that violate this subtitle, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this subtitle; or

(C) obtain civil penalties of not more than $5,000 per violation per day while such violations persist, up to a maximum of $500,000 per violation.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Federal Trade Commission—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Federal Trade Commission as soon after the filing of the complaint as practicable.

(3) FEDERAL TRADE COMMISSION AUTHORITY.—Upon receiving notice under paragraph (2), the Federal Trade Commission shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Federal Trade Commission has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1) nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 304. RELATION TO OTHER LAWS.

(a) IN GENERAL.—No State may require any business entity subject to this subtitle to comply with any requirements with respect to administrative, technical, and physical safeguards for the protection of sensitive personally identifying information.

(b) LIMITATIONS.—Nothing in this subtitle shall be construed to modify, limit, or supersede the operation of the Gramm-Leach-Bliley Act or its implementing regulations, including those adopted or enforced by States.

Subtitle B—Security Breach Notification

SEC. 311. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach of such information, notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing in this subtitle shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, and restore the reasonable integrity of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this subtitle, including evidence demonstrating the reasons for any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a Federal law enforcement agency determines that the notification required under this section would impede a criminal investigation, such notification shall be delayed upon written notice from such Federal law enforcement agency to the agency or business entity that experienced the breach.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a Federal law enforcement agency provides written notification that further delay is necessary.

(3) LAW ENFORCEMENT IMMUNITY.—No cause of action shall lie in any court against any law enforcement agency for acts relating to the delay of notification for law enforcement purposes under this subtitle.

SEC. 312. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 311 shall not apply to an agency or business entity if the agency or business entity certifies, in writing, that notification of the security breach as required by section 311 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—An agency or business entity may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which an agency or business agency issues a certification under paragraph (1), the certification, accompanied by a description of the factual basis for the certification, shall be immediately provided to the United States Secret Service.

(4) SECRET SERVICE REVIEW OF CERTIFICATIONS.—

(A) IN GENERAL.—The United States Secret Service may review a certification provided by an agency under paragraph (3), and shall review a certification provided by a business entity under paragraph (3), to determine whether an exemption under paragraph (1) is merited. Such review shall be completed not later than 10 business days after the date of receipt of the certification, except as provided in paragraph (5)(C).

(B) NOTICE.—Upon completing a review under subparagraph (A) the United States Secret Service shall immediately notify the agency or business entity, in writing, of its determination of whether an exemption under paragraph (1) is merited.

(C) EXEMPTION.—The exemption under paragraph (1) shall not apply if the United States Secret Service determines under this paragraph that the exemption is not merited.

(5) ADDITIONAL AUTHORITY OF THE SECRET SERVICE.—

(A) IN GENERAL.—In determining under paragraph (4) whether an exemption under paragraph (1) is merited, the United States Secret Service may request additional information from the agency or business entity regarding the basis for the claimed exemption, if such additional information is necessary to determine whether the exemption is merited.

(B) REQUIRED COMPLIANCE.—Any agency or business entity that receives a request for additional information under subparagraph (A) shall cooperate with any such request.

(C) TIMING.—If the United States Secret Service requests additional information under subparagraph (A), the United States Secret Service shall notify the agency or business entity not later than 10 business days after the date of receipt of the additional information whether an exemption under paragraph (1) is merited.

(b) SAFE HARBOR.—An agency or business entity will be exempt from the notice requirements under section 311, if—

(1) a risk assessment concludes that—

(A) there is no significant risk that a security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach, with the encryption of such information establishing a presumption that no significant risk exists; or

(B) there is no significant risk that a security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach, with the rendering of such sensitive personally identifiable information indecipherable through the use of best practices or methods, such as redaction, access controls, or other such mechanisms, which are widely accepted as an effective industry practice, or an effective industry standard, establishing a presumption that no significant risk exists;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service, the agency or business entity notifies the United States Secret Service, in writing, of—

(A) the results of the risk assessment; and

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service does not indicate, in writing, within 10 business days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 311 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice to affected individuals after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if—

(A) the information subject to the security breach includes sensitive personally identifiable information, other than a credit card or credit card security code, of any type of the sensitive personally identifiable information identified in section 3; or

(B) the security breach includes both the individual's credit card number and the individual's first and last name.

SEC. 313. METHODS OF NOTICE.

An agency or business entity shall be in compliance with section 311 if it provides both:

(1) INDIVIDUAL NOTICE.—Notice to individuals by 1 of the following means:

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity.

(B) Telephone notice to the individual personally.

(C) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—Notice to major media outlets serving a State or jurisdiction, if the number of residents of such State whose sensitive personally identifiable information was, or is reasonably believed to have been, acquired by an unauthorized person exceeds 5,000.

SEC. 314. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 313, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn what types of sensitive personally identifiable information the agency or business entity maintained about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 319, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 315. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 5,000 individuals under section 311(a), the agency or business entity shall also notify all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices. Such notice shall be given to the consumer credit reporting agencies without unreasonable delay and, if it will not delay notice to the affected individuals, prior to the distribution of notices to the affected individuals.

SEC. 316. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE.—Any business entity or agency shall notify the United States Secret Service of the fact that a security breach has occurred if—

(1) the number of individuals whose sensitive personally identifying information was, or is reasonably believed to have been acquired by an unauthorized person exceeds 10,000;

(2) the security breach involves a database, networked or integrated databases, or other data system containing the sensitive personally identifiable information of more than 1,000,000 individuals nationwide;

(3) the security breach involves databases owned by the Federal Government; or

(4) the security breach involves primarily sensitive personally identifiable information of individuals known to the agency or business entity to be employees and contractors of the Federal Government involved in national security or law enforcement.

(b) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service shall be responsible for notifying—

(1) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code;

(2) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(3) the attorney general of each State affected by the security breach.

(c) TIMING OF NOTICES.—The notices required under this section shall be delivered as follows:

(1) Notice under subsection (a) shall be delivered as promptly as possible, but not later than 14 days after discovery of the events requiring notice.

(2) Notice under subsection (b) shall be delivered not later than 14 days after the Service receives notice of a security breach from an agency or business entity.

SEC. 317. ENFORCEMENT.

(a) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States

district court against any business entity that engages in conduct constituting a violation of this subtitle and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—If it appears that a business entity has engaged, or is engaged, in any act or practice constituting a violation of this subtitle, the Attorney General may petition an appropriate district court of the United States for an order—

(A) enjoining such act or practice; or

(B) enforcing compliance with this subtitle.

(2) ISSUANCE OF ORDER.—A court may issue an order under paragraph (1), if the court finds that the conduct in question constitutes a violation of this subtitle.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subtitle are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting ", or evidence that the consumer has received notice that the consumer's financial information has or may have been compromised," after "identity theft report".

SEC. 318. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of a business entity in a practice that is prohibited under this subtitle, the State or the State or local law enforcement agency on behalf of the residents of the agency's jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this subtitle; or

(C) civil penalties of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subtitle, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) initiate an action in the appropriate United States district court under section 317 and move to consolidate all pending actions, including State actions, in such court;

(3) intervene in an action brought under subsection (a)(2); and

(4) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subtitle against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 319. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this subtitle shall supersede any other provision of Federal law or any provision of law of any State relating to notification by a business entity engaged in interstate commerce or an agency of a security breach, except as provided in section 314(b).

SEC. 320. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this subtitle.

SEC. 321. REPORTING ON RISK ASSESSMENT EXEMPTIONS.

The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on—

(1) the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 312(b) and the response of the United States Secret Service to such notices; and

(2) the number and nature of security breaches subject to the national security and law enforcement exemptions under section 312(a), provided that such report may not disclose the contents of any risk assessment provided to the United States Secret Service pursuant to this subtitle.

SEC. 322. EFFECTIVE DATE.

This subtitle shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

Subtitle C—Office of Federal Identity Protection

SEC. 331. OFFICE OF FEDERAL IDENTITY PROTECTION.

(a) ESTABLISHMENT.—There is established in the Federal Trade Commission an Office of Federal Identity Protection.

(b) DUTIES.—The Office of Federal Identity Protection shall be responsible for assisting each consumer with—

(1) addressing the consequences of the theft or compromise of the personally identifiable information of that consumer;

(2) accessing remedies provided under Federal law and providing information about remedies available under State law;

(3) restoring the accuracy of—

(A) the personally identifiable information of that consumer; and

(B) records containing the personally identifiable information of that consumer that were stolen or compromised; and

(4) retrieving any stolen or compromised personally identifiable information of that consumer.

(c) ACTIVITIES.—In order to perform the duties required under subsection (b), the Office of Federal Identity Protection shall carry out the following activities:

(1) Establish a website, easily and conspicuously accessible from ftc.gov, dedicated to assisting consumers with the retrieval of the stolen or compromised personally identifiable information of the consumer.

(2) Maintain a toll-free phone number to help answer questions concerning identity theft from consumers.

(3) Establish online and offline consumer-service teams to assist consumers seeking the retrieval of the personally identifiable information of the consumer.

(4) Provide guidance and information to service organizations or pro bono legal services programs that offer individualized assistance or counseling to victims of identity theft.

(5) Establish a reasonable standard for determining when an individual becomes a victim of identity theft.

(6) Issue certifications to individuals who, under the standard described in paragraph (5), are identity theft victims.

(7) Permit an individual to use the Office of Federal Identity Protection certification—

(A) in all Federal, State, and local jurisdictions, in lieu of a police report or any other document required by State or local law, as a prerequisite to accessing business records of transactions done by someone claiming to be the individual; and

(B) to establish the eligibility of that individual for—

(i) the fraud alert protections under section 605A of the Fair Credit Reporting Act (15 U.S.C. 1681c–1); and

(ii) the reporting protections under section 605B(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c–2(a)).

(8) Coordinate, as the Office determines necessary, with the designated Chief Privacy Officer of each Federal agency, or any other designated senior official in such agency in charge of privacy, in order to meet the duties of assisting consumers as required under subsection (b).

(9) In addition to the requirements in paragraphs (1) through (7), the Federal Trade

Commission shall promulgate regulations that enable the Office of Federal Identity Protection to help consumers restore their stolen or otherwise compromised personally identifiable information quickly and inexpensively.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Office of Federal Identity Protection such sums as are necessary for fiscal year 2010 and each of the 4 succeeding fiscal years.

TITLE IV—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

SEC. 401. GENERAL SERVICES ADMINISTRATION REVIEW OF CONTRACTS.

(a) IN GENERAL.—In considering contract awards totaling more than $500,000 and entered into after the date of enactment of this Act with data brokers, the Administrator of the General Services Administration shall evaluate—

(1) the data privacy and security program of a data broker to ensure the privacy and security of data containing personally identifiable information, including whether such program adequately addresses privacy and security threats created by malicious software or code, or the use of peer-to-peer file sharing software;

(2) the compliance of a data broker with such program;

(3) the extent to which the databases and systems containing personally identifiable information of a data broker have been compromised by security breaches; and

(4) the response by a data broker to such breaches, including the efforts by such data broker to mitigate the impact of such security breaches.

(b) COMPLIANCE SAFE HARBOR.—The data privacy and security program of a data broker shall be deemed sufficient for the purposes of subsection (a), if the data broker complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of personally identifiable information involved in the ordinary course of business of such data broker.

(c) PENALTIES.—In awarding contracts with data brokers for products or services related to access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, the Administrator of the General Services Administration shall—

(1) include monetary or other penalties—

(A) for failure to comply with subtitles A and B of title III; or

(B) if a contractor knows or has reason to know that the personally identifiable information being provided is inaccurate, and provides such inaccurate information; and

(2) require a data broker that engages service providers not subject to subtitle A of title III for responsibilities related to sensitive personally identifiable information to—

(A) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(B) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(C) require such service providers, by contract, to implement and maintain appropriate measures designed to meet the objectives and requirements in title III.

(d) LIMITATION.—The penalties under subsection (c) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source or licensor.

SEC. 402. REQUIREMENT TO AUDIT INFORMATION SECURITY PRACTICES OF CONTRACTORS AND THIRD PARTY BUSINESS ENTITIES.

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (7)(C)(iii), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) procedures for evaluating and auditing the information security practices of contractors or third party business entities supporting the information systems or operations of the agency involving personally identifiable information (as that term is defined in section 3 of the Personal Data Privacy and Security Act of 2009) and ensuring remedial action to address any significant deficiencies.''.

SEC. 403. PRIVACY IMPACT ASSESSMENT OF GOVERNMENT USE OF COMMERCIAL INFORMATION SERVICES CONTAINING PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 208(b)(1) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended—

(1) in subparagraph (A)(i), by striking ''or''; and

(2) in subparagraph (A)(ii), by striking the period and inserting ''; or''; and

(3) by inserting after clause (ii) the following:

''(iii) purchasing or subscribing for a fee to personally identifiable information from a data broker (as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2009).''.

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 1 year after the date of enactment of this Act, no Federal agency may enter into a contract with a data broker to access for a fee any database consisting primarily of personally identifiable information concerning United States persons (other than news reporting or telephone directories) unless the head of such department or agency—

(1) completes a privacy impact assessment under section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note), which shall subject to the provision in that Act pertaining to sensitive information, include a description of—

(A) such database;

(B) the name of the data broker from whom it is obtained; and

(C) the amount of the contract for use;

(2) adopts regulations that specify—

(A) the personnel permitted to access, analyze, or otherwise use such databases;

(B) standards governing the access, analysis, or use of such databases;

(C) any standards used to ensure that the personally identifiable information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate purpose of the Federal agency;

(D) standards limiting the retention and redisclosure of personally identifiable information obtained from such databases;

(E) procedures ensuring that such data meet standards of accuracy, relevance, completeness, and timeliness;

(F) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(G) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongly incurred due to the access, analysis, or use of such databases;

(H) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(I) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases; and

(3) incorporates into the contract or other agreement totaling more than $500,000, provisions—

(A) providing for penalties—

(i) for failure to comply with title III of this Act; or

(ii) if the entity knows or has reason to know that the personally identifiable information being provided to the Federal department or agency is inaccurate, and provides such inaccurate information; and

(B) requiring a data broker that engages service providers not subject to subtitle A of title III for responsibilities related to sensitive personally identifiable information to—

(i) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(ii) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(iii) require such service providers, by contract, to implement and maintain appropriate measures designed to meet the objectives and requirements in title III.

(c) LIMITATION ON PENALTIES.—The penalties under subsection (b)(3)(A) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

(d) STUDY OF GOVERNMENT USE.—

(1) SCOPE OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and audit and prepare a report on Federal agency actions to address the recommendations in the Government Accountability Office's April 2006 report on agency adherence to key privacy principles in using data brokers or commercial databases containing personally identifiable information.

(2) REPORT.—A copy of the report required under paragraph (1) shall be submitted to Congress.

SEC. 404. IMPLEMENTATION OF CHIEF PRIVACY OFFICER REQUIREMENTS.

(a) DESIGNATION OF THE CHIEF PRIVACY OFFICER.—Pursuant to the requirements under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (division H of Public Law 108–447; 118 Stat. 3199) that each agency designate a Chief Privacy Officer, the Department of Justice shall implement such requirements by designating a department-wide Chief Privacy Officer, whose primary role shall be to fulfill the duties and responsibilities of Chief Privacy Officer and who shall report directly to the Deputy Attorney General.

(b) DUTIES AND RESPONSIBILITIES OF CHIEF PRIVACY OFFICER.—In addition to the duties and responsibilities outlined under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (division H of Public Law 108–447; 118 Stat. 3199), the Department of Justice Chief Privacy Officer shall—

(1) oversee the Department of Justice's implementation of the requirements under section 403 to conduct privacy impact assessments of the use of commercial data containing personally identifiable information by the Department; and

(2) coordinate with the Privacy and Civil Liberties Oversight Board, established in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), in implementing this section.

By Mr. LEVIN (for himself and Mr. McCAIN):

S. 1491. A bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits based upon stock option compensation expenses be consistent with accounting expenses shown in corporate financial statements for such compensation; to the Committee on Finance.

Mr. LEVIN. Mr. President, Senator McCAIN and I are introducing today a bill to eliminate Federal corporate tax breaks that give special tax treatment to corporations that pay their executives with stock options. It is called the Ending excessive Corporate Deductions for Stock Options Act, and it has been endorsed by OMB Watch, the Consumer Federation of America, the Tax Justice Network-USA, and the AFL–CIO.

We are in a financial crisis. We are spending hundreds of billions of taxpayer dollars to try to stop the housing bust and prop up Wall Street. Too many of the middle class are watching the American dream slip away, while executives are getting mutli-million dollar compensation packages.

At the same time, mismatched stock option accounting and tax rules are shortchanging the Treasury to the tune of billions of dollars each year, while fueling the growing chasm between executive pay and average worker pay. The mismatch is this: companies are allowed to report one set of stock option compensation expenses to investors and the public through their public financial statements, and a completely different set of expenses to the Internal Revenue Service, IRS, on their tax returns. Put simply, our precious tax dollars are being wasted by an outdated and unfair corporate tax loophole that encourages corporations to hand out massive stock option grants to their executives. It is time to put an end to the excessive tax deductions being reaped by corporations at taxpayers' expense.

J.P. Morgan once said that executive pay should not exceed 20 times average worker pay. In the United States, in 1990, average pay for the chief executive officer of a large U.S. corporation was 100 times average worker pay. Recently, CEO pay was nearly 400 times that of the average worker.

The single biggest factor responsible for this massive pay gap is stock options. Stock options are a huge contributor to executive pay. A key factor encouraging companies to pay their executives with stock options is the misguided Federal tax system that favors stock options over other types of compensation. Stock options give employees the right to buy company stock at a set price for a specified period of time, often 5 or 10 years. Virtually every CEO in America is paid with stock options, which are a major contributor to sky-high executive pay. According to Forbes magazine, in 2008, the CEOs at the 500 largest U.S. companies took home a combined $5.7 billion, averaging $11.4 million each.

For example, according to an Equilar Inc. analysis of 2008 filings with the Securities and Exchange Commission, SEC, Oracle Corporation's CEO was granted options estimated in value at more than $71 million just last year. That grant was on top of the pay he received from vested and exercised stock options given to him by his company in the past. In 2008 alone, those stock options amounted to a personal gain of more than $543 million. That is $543 million in stock option gains in a single year. Stunningly, his company gets to deduct this outlandish ''compensation'' from its taxes—even though the company never paid him that amount, and even though the existing tax code generally limits corporate deductions for executive pay to $1 million per executive.

Oracle's CEO was not alone. Equilar has identified dozens of U.S. executives who obtained tens of millions or even hundreds of millions of dollars from stock options in 2008. For example, the CEO of Qualcomm Inc., had $209 million in stock options gains in 2008, while the CEO of Occidental Petroleum had gains of $184 million.

Between the repricing of some stock options and grants being made while stock prices are low, the recent stock market recovery will likely mean that many executives will continue to reap astronomical stock option-related compensation, and their companies will continue to reap unwarranted tax deductions from stock options gains.

Why do corporate executives have so many stock options to cash in? A key reason is that U.S. accounting rules allow companies to report their stock option expenses one way on the corporate books, while Federal tax rules require them to report the same stock options a completely different way on their tax returns. In most cases, the resulting book expense is far smaller than the resulting tax deduction. That means, under current U.S. accounting and tax rules, stock option tax deductions taken by corporations often far exceed the recorded stock option expenses shown on the companies' books. The result is a tax windfall.

Stock options are the only type of compensation where the Federal tax code permits companies to claim a bigger deduction on their tax returns than the corresponding expense on their books. For all other types of compensation—cash, stock, bonuses, and more—the tax return deduction equals the book expense. In fact, companies cannot deduct more than the compensation expense shown on their books, because that would be tax fraud. The sole exception to this rule is stock options. In the case of stock options, the tax code allows companies to claim a tax deduction that can be two, three, ten or one hundred times larger than the expense shown on their books.

When a company's compensation committee learns that stock options can produce a low compensation expense on the books, while generating a generous tax deduction that is multiple times larger, it creates a temptation for the company to pay its executives with stock options instead of cash or stock. It is a classic case of U.S. tax policy creating an unintended incentive for corporations to act in a particular way.

This bill is particularly timely given the new administration's stated goals to close unfair corporate tax loopholes, strengthen tax fairness, and reign in excessive executive compensation. Given the current financial crisis, staggering health care costs, and ongoing defense needs, now more than ever, we cannot afford this multi-billion dollar loss to the Treasury.

To understand why this bill is needed it helps to understand how stock option accounting and tax rules got so out of kilter with each other in the first place.

Calculating the cost of stock options may sound straightforward, but for years, companies and their accountants engaged the Financial Accounting Standards Board (FASB) in an all-out, knock-down battle over how companies should record stock option compensation expenses on their books.

U.S. publicly traded corporations are required by law to follow Generally Accepted Accounting Principles, GAAP, issued by FASB, which is overseen by the SEC. For many years, GAAP allowed U.S. companies to issue stock options to employees and, unlike any other type of compensation, report a zero compensation expense on their books, so long as, on the grant date, the stock option's exercise price equaled the market price at which the stock could be sold.

Assigning a zero value to stock options that routinely produce huge amounts of executive pay provoked deep disagreements within the accounting community. In 1993, FASB proposed assigning a ''fair value'' to stock options on the date they are granted to an employee, using mathematical valuation tools. FASB proposed further that companies include that amount as a compensation expense on their financial statements. A battle over stock option expensing followed, involving the accounting profession, corporate executives, FASB, the SEC, and Congress.

In the end, after years of fighting and negotiation, FASB issued a new accounting standard, Financial Accounting Standard, FAS, 123R, which was endorsed by the SEC and became mandatory for all publicly traded corporations in 2005. In essence, FAS 123R requires all companies to record a compensation expense equal to the fair value on grant date of all stock options provided to an employee in exchange for the employee's services.

The details of this accounting rule are complex, because they reflect an effort to accommodate varying viewpoints on the true cost of stock options. Companies are allowed to use a variety of mathematical models, for

example, to calculate a stock option's fair value. Option grants that vest over time are expensed over the specified period so that, for example, a stock option which vests over four years results in 25 percent of the cost being expensed each year. If a stock option grant never vests, the rule allows any previously booked expense to be recovered. On the other hand, stock options that do vest are required to be fully expensed, even if never exercised, because the compensation was actually awarded. These and other provisions of this hard-fought accounting rule reflect painstaking judgments on how to show a stock option's value.

Opponents of the new accounting rule had predicted that, if implemented, it would severely damage U.S. capital markets. They warned that stock option expensing would eliminate corporate profits, discourage investment, depress stock prices, and stifle innovation. 2006 was the first year in which all U.S. publicly traded companies were required to expense stock options. Instead of tumbling, both the New York Stock Exchange and Nasdaq turned in strong performances, as did initial public offerings by new companies. The dire predictions were wrong. Stock option expensing has been fully implemented without any detrimental impact to the markets.

During the years the battle raged over stock option accounting, relatively little attention was paid to the taxation of stock options. Section 83 of the tax code, first enacted in 1969 and still in place after four decades, is the key statutory provision. It essentially provides that, when an employee exercises compensatory stock options, the employee must report as income the difference between what the employee paid to exercise the options and the market value of the stock received. The corporation can then take a mirror deduction for whatever amount of income the employee realized.

For example, suppose a company gave an executive options to buy 1 million shares of the company stock at $10 per share. Suppose, 5 years later, the executive exercised the options when the stock was selling at $30 per share. The executive's income would be $20 per share for a total of $20 million. The executive would declare $20 million as ordinary income, and in the same year, the company would take a corresponding tax deduction for $20 million.

The two main problems with this approach are that: the deduction amount is significantly greater than the value of what the company gave away, often years earlier, and the $20 million in income obtained by the executive did not come out of the company's coffers. In most cases, the $20 million was paid by unrelated parties on the stock market. Yet the tax code allowed the corporation to declare the $20 million as a business expense and take it as a tax deduction. The reasoning was that the exercise date value was the only way to get a clear figure for stock option tax deduction purposes. That reasoning lost its persuasive character, however, once consensus was reached on how to calculate stock option expenses when granted.

Stock option accounting and tax rules have evolved separately over the years and are now at odds with each other. Accounting rules require companies to expense stock options on their books on the grant date. Tax rules provide that companies deduct stock option expenses on the exercise date. Companies have to report the grant date expense to investors on their financial statements, and the exercise date expense on their tax returns. The financial statements report on all stock options granted during the year, while the tax returns report on all stock options exercised during the year. In short, company financial statements and tax returns identify expenses for different groups of stock options, using different valuation methods, and resulting in widely divergent stock option expenses for the same year.

To examine the nature and consequences of the stock option book-tax differences, the Permanent Subcommittee on Investigations, which I chair, initiated an investigation and held a hearing 2 years ago, in June 2007. Here is what we found.

To test just how far the book and tax figures for stock options diverge, the Subcommittee contacted a number of companies to compare the stock option expenses they reported for accounting and tax purposes. The Subcommittee asked each company to identify stock options that had been exercised by one or more of its executives from 2002 to 2006. The Subcommittee then asked each company to identify the compensation expense they reported on their financial statements versus the compensation expense on their tax returns. In addition, we asked the companies' help in estimating what effect the new accounting rule would have had on their book expense if it had been in place when their stock options were granted. At the hearing, we disclosed the resulting stock option data for 9 companies, including three companies that were asked to testify. The Subcommittee very much appreciated the cooperation and assistance provided by the nine companies we worked with.

The data provided by the companies showed that, under then existing rules, the nine companies showed a zero expense on their books for that stock options that had been awarded to their executives, but claimed millions of dollars in tax deductions for the same compensation. The one exception was Occidential Petroleum which, in 2005, began voluntarily expensing its stock options, but even this company reported significantly greater tax deductions than the stock option expenses shown on its books. When the Subcommittee asked the companies what their book expense would have been if the new FASB rule had been in effect, all nine calculated book expenses that remained dramatically lower than their tax deductions. Altogether the 9 companies calculated that they would have claimed $1 billion more in stock option tax deductions than they would have shown as book expenses, even using the tougher new accounting rule. Let me repeat that—just nine companies produced a stock option book-tax difference of more than $1 billion.

KB Home, for example, is a company that builds residential homes. Its stock price had more than quadrupled over the past 10 years. Over the same time period, it had repeatedly granted stock options to its then CEO. Company records show that, over five years, KB Home gave him 5.5 million stock options of which, by 2006, he had exercised more than 3 million.

With respect to those 3 million stock options, KB Home recorded a zero expense on its books. Had the new accounting rule been in effect, KB Home calculated that it would have reported on its books a compensation expense of about $11.5 million. KB Home also disclosed that the same 3 million stock options enabled it to claim compensation expenses on its tax returns totaling about $143.7 million. In other words, KB Home claimed a $143 million tax deduction for expenses that on its books, under current accounting rules, would have totaled $11.5 million. That's a tax deduction 12 times bigger than the book expense.

Occidental Petroleum disclosed a similar book-tax discrepancy. This company's stock price had also skyrocketed, dramatically increasing the value of the 16 million stock options granted to its CEO since 1993. Of the 12 million stock options the CEO actually exercised over a five-year period, Occidental Petroleum claimed a $353 million tax deduction for a book expense that, under current accounting rules, would have totaled just $29 million. That's a book-tax difference of more than 1200 percent.

Similar book-tax discrepancies applied to the other companies we examined. Cisco System's CEO exercised nearly 19 million stock options over 5 years, and provided the company with a $169 million tax deduction for a book expense which, under current accounting rules, would have totaled about $21 million. UnitedHealth's former CEO exercised over 9 million stock options in 5 years, providing the company with a $318 million tax deduction for a book expense which would have totaled about $46 million. Safeway's CEO exercised over 2 million stock options, providing the company with a $39 million tax deduction for a book expense which would have totaled about $6.5 million.

Altogether, these nine companies took stock option tax deductions totaling $1.2 billion, a figure 5 times larger than the $217 million that their combined stock option book expenses would have been. The resulting $1 billion in excess tax deductions represents

a tax windfall for these companies simply because they issued lots of stock options to their CEOs.

Tax rules that produce huge tax deductions that are many times larger than the related stock option book expenses give companies an incentive to issue massive stock option grants, because they know the stock options will produce a relatively small hit to the profits shown on their books, while also knowing that they are likely to get a much larger tax deduction that can dramatically lower their taxes.

The data we gathered for nine companies alone disclosed stock option tax deductions that were five times larger than their book expenses, generating over $1 billion in excess tax deductions. To gauge whether the same tax gap applied to stock options across the country as a whole, the Subcommittee asked the IRS to perform an analysis of some newly obtained stock option data.

For the first time in 2004, large corporations were required to file a new tax Schedule M–3 with their tax returns. The M–3 Schedule asks companies to identify differences in how they report corporate income to investors versus what they report to Uncle Sam, so that the IRS can track and analyze significant book-tax differences.

This data shows that, for corporate tax returns filed form July 1, 2005 to June 30, 2006, the first full year in which it was available, companies' stock option tax deductions totaled about $61 billion more than their stock options expenses on their books. Similar data for July 1, 2006 to June 30, 2007, showed that the excess stock option tax deductions totaled about $48 billion. In addition, the IRS data shows that nearly 60 percent of the excess tax deductions in 2007 were attributable to only 100 corporations; 75 percent were attributable to only 250 corporations. The IRS also determined that stock options were one of the most important factors why corporations reported different income on their books compared to their tax returns.

Claiming these massive stock option tax deductions enabled U.S. corporations, as a whole, to legally reduce payment of their taxes by billions of dollars, perhaps as much as $10 billion, $15 billion, even $20 billion per year.

There were other surprises in the data as well. One set of issues disclosed by the data involves what happens to unexercised stock options. Under the current mismatched set of accounting and tax rules, stock options which are granted, vested, but never exercised by the option holder turn out to produce a corporate book expense but no tax deduction.

Cisco Systems told the Subcommittee, for example, that in addition to the 19 million exercised stock options previously mentioned, their CEO held about 8 million options that, due to a stock price drop, would likely expire without being exercised. Cisco calculated that, had FAS 123R been in effect a the time those options were granted, the company would have had to show a $139 million book expense, but would never be able to claim a tax deduction for this expense since the options would never be exercised. Apple made a similar point. It told the Subcommittee that, in 2003, it allowed its CEO to trade 17.5 million in underwater stock options for 5 million shares of restricted stock. That trade meant the stock options would never be exercised and, under current rules, would produce a book expense without ever producing a tax deduction.

In both of these cases, under FAS 123R, it is possible that the stock options given to a corporate executive would have produced a reported book expense greater than the company's tax deduction. While the M–3 data indicates that, overall, accounting expenses lag far behind claimed tax deductions, the possible financial impact on an individual company of a large number of unexercised stock options is additional evidence that existing stock option accounting and tax rules are out of kilter and should be brought into alignment. Under our bill, if a company incurred a stock option expense, it would always be able to claim a tax deduction for that expense.

Another set of issues brought to light by theIRS data focuses on the fact that the current stock option tax deduction is typically claimed years later than the initial book expense. Normally, a corporation dispenses compensation to an employee and takes a tax deduction in the same year for the expense. The company controls the timing and amount of the compensation expense and the corresponding tax deduction. With respect to stock options, however, corporations may have to wait years to see if, when, and how much of a deduction can be taken. That is because the corporate tax deduction is wholly dependent upon when an individual corporate executive decides to exercise his or her stock options.

Our bill would require that, when the company gives away something of value, it reflects that expense on its books and claims that same expense on its tax return. The company, and the government, should not have to wait to see whether the stock options given to executives later increased in value and were exercised. As with any other form of compensation, the company should determine the value of what it is giving away, and take the appropriate tax deduction at that time.

UnitedHealth, for example, told the Subcommittee that it gave its former CEO 8 million stock options in 1999, of which, by 2006, only about 730,000 had been exercised. It did not know if or when its former CEO would exercise the remaining 7 million options, and so could not calculate when or how much of a tax deduction it would be able to claim for this compensation expense.

If the rules for stock option tax deductions were changed as suggested in our bill, companies would typically be able to take the deduction years earlier than they do now, without waiting to see if and when particular options are exercised. Companies would also be allowed to deduct stock options that are vested but never exercised. In addition, by requiring stock option expenses to be deducted in the same year they appear on the company books, stock options would become consistent with how other forms of compensation are treated in the tax code.

Right now, U.S. stock option accounting and tax rules are mismatched, misaligned, and out of kilter. They allow companies collectively to deduct billions of dollars in stock option expenses in excess of the expenses that actually appear on the company books. They disallow tax deductions for stock options that are given as compensation but never exercised. They often force companies to wait years to claim a tax deduction for a compensation expense that could and should be claimed in the same year it appears on the company books.

The Levin-McCain bill we are introducing today would cure these problems. It would bring stock option accounting and tax rules into alignment, so that the two sets of rules would apply in a consistent manner. It would accomplish that goal simply by requiring the corporate stock option tax deduction to be no greater than the stock option expenses shown on the corporate books each year.

Specifically, the bill would end use of the current stock option deduction under Section 83 of the tax code, which allows corporations to deduct stock option expenses when exercised in an amount equal to the income declared by the individual exercising the option, replacing it with a new Section 162(q), which would require companies to deduct the stock option expenses shown on their books each year.

The bill would apply only to corporate stock option deductions; it would make no changes to the rules that apply to individuals who have been given stock options as part of their compensation. Individuals would still report their compensation on the day they exercised their stock options. They would still report as income the difference between what they paid to exercise the options and the fair market value of the stock they received upon exercise. The gain would continue to be treated as ordinary income rather than a capital gain, since the option holder did not invest any capital in the stock prior to exercising the stock option and the only reason the person obtained the stock was because of the services they performed for the corporation.

The amount of income declared by the individual after exercising a stock option will likely often be greater than the stock option expense booked and deducted by the corporation who employed that individual. That's in part because the individual's gain often comes years later than the original

stock option grant, and the underlying stock will usually have gained in value. In addition, the individual's gain is typically provided, not by the corporation that supplied the stock options years earlier, but by third parties active in the stock market.

Consider the same example discussed earlier of an executive who exercises options to buy 1 million shares of stock at $10 per share, obtains the shares from the corporation, and then immediately sells them on the open market for $30 per share, making a toal profit of $20 million. The individual's corporation didn't supply the $20 million. Just the opposite. Rather than paying cash to its executive, the corporation received a $10 million payment from the executive in exchange for the 1 million shares. The $20 million profit from selling the shares was paid, not by the corporation, but by third parties in the marketplace who purchased the stock. That is why it makes no sense for the company to declare as an expense the amount of profit that an employee—or former employee—obtained from unrelated parties in the marketplace.

The bill we are introducing today would put an end to the current approach of using the stock option income declared by an individual as the tax deduction claimed by the corporation that supplied the stock options. It would break that old artificial symmetry and replace it with a new symmetry—one in which the corporation's stock option tax deduction would match its book expense.

I describe the current approach to corporate stock option deductions as artificial, because it uses a construct in the tax code that, when first implemented 40 years ago, enabled corporations to calculate their stock option expense on the exercise date, when there was no consensus on how to calculate stock option expenses on the grant date. The artificiality of the approach is demonstrated by the fact that it allows companies to claim a deductible expense for money that comes not from company coffers, but from third parties in the stock market. Now that U.S. accounting rules require the calculation of stock option expenses on the grant date, however, there is no longer any need to rely on an artificial construct that calculated corporate stock option expenses on the exercise date using third party funds.

It is also important to note that the bill would not affect in any way current tax provisions that provide favored tax treatment to so-called Incentive Stock Options under Sections 421 and 422 of the tax code. Under those sections, in certain circumstances, corporations can surrender their stock option deductions in favor of allowing their employees with stock option gains to be taxed at a capital gains rate instead of ordinary income tax rates. Many start-up companies use these types of stock options, because they don't yet have taxable profits and don't need a stock option tax deduction. So they forfeit their stock option corporate deduction in favor of giving their employees more favorable treatment of their stock option income. Incentive Stock Options would not be affected by our legislation and would remain available to any corporation providing stock options to its employees.

The bill would make one other important change to the tax code as it relates to corporate stock option tax deductions. In 1993, Congress enacted a $1 million cap on the compensation that a corporation can deduct from its taxes, so taxpayers would not be forced to subsidize excessive executive pay. However, the cap was not applied to stock options, allowing companies to deduct any amount of stock option compensation, without limit.

By not applying the $1 million cap to stock option compensation, the tax code created a significant incentive for corporations to pay their executives with stock options. Indeed, it is very common for executives to have salaries of $1 million, while simultaneously receiving millions of dollars more in stock options. It is effectively meaningless to cap deductions for executive salary compensation but not also for stock options.

Further, while corporate directors may be comfortable diluting their shareholders' interests and doling out massive amounts of stock options, that does not mean that the taxpayers should subsidize it. This bill would eliminate this favored treatment of executive stock options by making deductions for this type of compensation subject to the same $1 million cap that applies to other forms of compensation covered by Section 162(m).

The bill also contains several technical provisions. First, it would make a conforming change to the research tax credit so that stock option expenses claimed under that credit would match the stock option deductions taken under the new tax code section 162(q). Second, the bill would authorize the Secretary of the Treasury to adopt regulations governing how to calculate the deduction for stock options issued by a parent corporation to the employees of a subsidiary.

Finally, the bill contains a transition rule for applying the new Section 162(q) stock option tax deduction to existing and future stock option grants. This transition rule would make it clear that the new tax deduction would not apply to any stock option exercised prior to the date of enactment of the bill.

The bill would also allow the old Section 83 deduction rules to apply to any option which was vested prior to the effective date of Financial Accounting Standard, FAS, 123R, and exercised after the date of enactment of the bill. The effective date of FAS 123R is June 15, 2005 for most corporations, and December 31, 2005 for most small businesses. Prior to the effective date of FAS 123R, most corporations would have shown a zero expense on their books for the stock options issued to their executives and, thus, would be unable to claim a tax deduction under the new Section 162(q). For that reason, the bill would allow these corporations to continue to use Section 83 to claim stock option deductions on their tax returns.

For stock options that vested after the effective date of FAS 123R and were exercised after the date of enactment, the bill takes another tack. Under FAS 123R, these corporations would have had to show the appropriate stock option expense on their books, but would have been unable to take a tax deduction until the executive actually exercised the option. For these options, the bill would allow corporations to take an immediate tax deduction—in the first year that the bill is in effect—for all of the expenses shown on their books with respect to these options. This ''catch-up deduction'' in the first year after enactment would enable corporations, in the following years, to begin with a clean slate so that their tax returns the next year would reflect their actual stock option book expenses for that same year.

After that catch-up year, all stock option expenses incurred by a company each year would be reflected in their annual tax deductions under the new Section 162(q).

The current differences between accounting and tax rules for stock options make no sense.

The current book-tax difference is the historical product of accounting and tax policies that have not been coordinated or integrated. The resulting mismatch has allowed companies to take tax deductions that are usually many times larger than the actual stock option expenses shown on their books, at the expense of the Treasury (i.e., other taxpayers). Companies are incentivized to dole out excessive options packages, producing outsized executive pay, while being allowed to reflect much smaller ''expenses'' on their books. They get to avoid paying their fair share to Uncle Sam by simply giving their executives the rights to huge sums of money from the financial markets.

Right now, stock options are the only compensation expense where the tax code allows companies to deduct more than their book expenses. In the last year for which the data is available, companies used the existing book-tax disparity to claim $48 billion more in stock option tax deductions than the expenses shown on their books. In these times of financial crisis, we cannot afford this multi-billion dollar loss to the Treasury, not only because of the need to finance the mounting costs of rescuing the economy, but also because this stock option book-tax difference contributes to the anger and social disruption caused by the ever deepening chasm between the pay of executives and the pay of average workers.

The Obama administration has pledged itself to closing unfair corporate tax loopholes and to returning sanity to executive pay. It should start with supporting the ending of excessive stock option corporate deductions. I urge my colleagues to join Senator MCCAIN and me in enacting this bill into law this year.

Mr. President, I ask unanimous consent that the text of the bill and a bill summary be printed in the RECORD.

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

S. 1491

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 ''Ending Excessive Corporate Deductions for Stock Options Act''.

SEC. 2. CONSISTENT TREATMENT OF STOCK OPTIONS BY CORPORATIONS.

(a) CONSISTENT TREATMENT FOR WAGE DEDUCTION.—

(1) IN GENERAL.—Section 83(h) of the Internal Revenue Code of 1986 (relating to deduction of employer) is amended—

(A) by striking ''In the case of'' and inserting:

''(1) IN GENERAL.—In the case of'', and

(B) by adding at the end the following new paragraph:

''(2) STOCK OPTIONS.—In the case of property transferred to a person in connection with the exercise of a stock option, any deduction by the employer related to such stock option shall be allowed only under section 162(q) and paragraph (1) shall not apply.''.

(2) TREATMENT OF COMPENSATION PAID WITH STOCK OPTIONS.—Section 162 of such Code (relating to trade or business expenses) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) TREATMENT OF COMPENSATION PAID WITH STOCK OPTIONS.—

''(1) IN GENERAL.—In the case of compensation for personal services that is paid with stock options, the deduction under subsection (a)(1) shall not exceed the amount the taxpayer has treated as an expense with respect to such stock options for the purpose of ascertaining income, profit, or loss in a report or statement to shareholders, partners, or other proprietors (or to beneficiaries), and shall be allowed in the same period that the accounting expense is recognized.

''(2) SPECIAL RULES FOR CONTROLLED GROUPS.—The Secretary shall prescribe rules for the application of paragraph (1) in cases where the stock option is granted by a parent or subsidiary corporation (within the meaning of section 424) of the employer corporation.''.

(b) CONSISTENT TREATMENT FOR RESEARCH TAX CREDIT.—Section 41(b)(2)(D) of the Internal Revenue Code of 1986 (defining wages for purposes of credit for increasing research expenses) is amended by inserting at the end the following new clause:

''(iv) SPECIAL RULE FOR STOCK OPTIONS.—The amount which may be treated as wages for any taxable year in connection with the issuance of a stock option shall not exceed the amount allowed for such taxable year as a compensation deduction under section 162(q) with respect to such stock option.''.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to stock options exercised after the date of the enactment of this Act, except that—

(1) such amendments shall not apply to stock options that were granted before such date and that vested in taxable periods beginning on or before June 15, 2005,

(2) for stock options that were granted before such date of enactment and vested during taxable periods beginning after June 15, 2005, and ending before such date of enactment, a deduction under section 162(q) of the Internal Revenue Code of 1986 (as added by subsection (a)(2)) shall be allowed in the first taxable period of the taxpayer that ends after such date of enactment,

(3) for public entities reporting as small business issuers and for non-public entities required to file public reports of financial condition, paragraphs (1) and (2) shall be applied by substituting ''December 15, 2005'' for ''June 15, 2005'', and

(4) no deduction shall be allowed under section 83(h) or section 162(q) of such Code with respect to any stock option the vesting date of which is changed to accelerate the time at which the option may be exercised in order to avoid the applicability of such amendments.

SEC. 3. APPLICATION OF EXECUTIVE PAY DEDUCTION LIMIT.

(a) IN GENERAL.—Subparagraph (D) of section 162(m)(4) of the Internal Revenue Code of 1986 (defining applicable employee remuneration) is amended to read as follows:

''(D) STOCK OPTION COMPENSATION.—The term 'applicable employee remuneration' shall include any compensation deducted under subsection (q), and such compensation shall not qualify as performance-based compensation under subparagraph (C).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock options exercised or granted after the date of the enactment of this Act.

SUMMARY OF THE ENDING EXCESSIVE CORPORATE DEDUCTIONS FOR STOCK OPTIONS ACT

SECTION 1—SHORT TITLE

''Ending Excessive Corporate Deductions for Stock Options Act''

SECTION 2—CONSISTENT TREATMENT OF STOCK OPTIONS BY CORPORATIONS

Eliminates favored tax treatment of corporate stock option deductions, in which corporations are currently allowed to deduct a higher stock option compensation expense on their tax returns than shown on their financial books—(1) creates a new corporate stock option deduction under a new tax code section 162(q) requiring the tax deduction to be consistent with the book expense, and (2) eliminates the existing corporate stock option deduction under tax code section 83(h) allowing excess deductions.

Allows corporations to deduct stock option compensation in the same year it is recorded on the company books, without waiting for the options to be exercised.

Makes a conforming change to the research tax credit so that stock option expenses under that credit will match the deductions taken under the new tax code section 162(q).

Authorizes Treasury to issue regulations applying the new deduction to stock options issued by a parent corporation to a subsidiary's employees.

Establishes a transition rule applying the new deduction to stock options exercised after enactment, permitting deductions under the old rule for options vested prior to adoption of Financial Accounting Standard (FAS) 123R (on expensing stock options) on June 15, 2005, and allowing a catch-up deduction in the first year after enactment for options that vested between adoption of FAS 123R and the date of enactment.

Makes no change to stock option compensation rules for individuals, or for incentive stock options that qualify under section 422 of the tax code.

SECTION 3—APPLICATION OF EXECUTIVE PAY DEDUCTION LIMIT

Eliminates favored treatment of corporate executive stock options under tax code section 162(m) by making executive stock option compensation deductions subject to the same $1 million cap on corporate deductions that applies to other types of compensation paid to the top executives of publicly held corporations. This approach mirrors that taken in the Economic Emergency Stabilization Act to address the financial crisis.

By Mr. REID (for Ms. MIKULSKI (for herself, Mr. BOND, Mrs. GILLIBRAND, Mr. MENENDEZ, Mr. BURR, and Ms. COLLINS)):

S. 1492. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, today, I rise to introduce the Alzheimer's Breakthrough Act of 2009. This critical bipartisan legislation passed the HELP Committee in 2007, but it has yet to pass the Senate. My hope is that we can finish the job this year and finally get this legislation signed into law.

Alzheimer's' disease is an alarming and mounting crisis that we must address. Today there are over five million Americans living with Alzheimer's disease. That number is expected to triple by 2050 in a nation where ten million Americans care for a sick family member.

We know a lot about Alzheimer's disease but it's been 100 years since it was first diagnosed, and we still have no cure or proven ways to prevent the disease. Urgency is needed in developing better treatments and better assistance for families impacted by the disease as the baby boom generation ages. If nothing is done, Alzheimer's will cost Medicare and Medicaid $19.89 trillion between 2010 and 2050.

The Alzheimer's Breakthrough Act of 2009 responds to this crisis in four ways.

First, it doubles funding for Alzheimer's research at NIH to $2 billion for fiscal year 2010, making Alzheimer's research a priority. Through this commitment, the bill gives researchers adequate resources to make breakthroughs in diagnosis, prevention and intervention, bringing us closer to a cure.

Second, the bill creates the National Summit on Alzheimer's. This Summit will bring together the Nation's best researchers, policymakers and public health professionals to discuss the most promising breakthroughs for saving lives and livelihood, and to generate priorities in moving forward in the fight against Alzheimer's.

Third, the act enhances public health activities related to Alzheimer's through the CDC's ''Roadmap to Maintaining Cognitive Health.''

Finally, the Alzheimer's Breakthrough Act provides family and caregiver support by expanding the Alzheimer's 24/7 call center, which provides crisis assistance and referrals to local community programs. The bill also expands the multilingual capacity of the call center.

America needs this legislation. Alzheimer's takes a toll on many victims. The disease is awful for the person living with it, emotionally and financially draining for caregivers and it is now costing the nation $175 billion annually, a number that could rise to $1 trillion annually by 2050.

We know the family of an Alzheimer's patient suffers gravely. The out-of-pocket cost of caring for an aging parent or spouse averages about $5,500 a year for necessities like groceries, household goods and drugs and medical copayments. If the care is long-distance, the cost could be up to $8,700 a year. Caregivers spend ten percent of their household income caring for a sick loved one who is suffering from this terrible disease.

Experts have told us ''we will lose opportunities if we don't move quickly'' and that ''we are at a crucial point where NIH funding can make a difference.'' We know about the long goodbye. Alzheimer's is a disease that affects millions of Americans including our All-American President Ronald Reagan and his beloved caregiver, First Lady Nancy Reagan. Now we need a response supported by millions that will lead to breakthroughs and ensure we are assisting patients and their families dealing with this disease on a daily basis.

Passage of the Alzheimer's Breakthrough Act of 2009 will help us advance the study and treatment of Alzheimer's to make a difference in the lives of millions of Americans and to equip caregivers with the resources and support services they need to care for their loved ones. This legislation is critical to the American public and America's future. We must act now.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1492

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 ''Alzheimer's Breakthrough Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Alzheimer's disease is a disorder that destroys cells in the brain. The disease is the leading cause of dementia, a condition that involves gradual memory loss, decline in the ability to perform routine tasks, disorientation, difficulty in learning, loss of language skills, impairment of judgment, and personality changes. As the disease progresses, people with Alzheimer's disease become unable to care for themselves. The loss of brain cells eventually leads to the failure of other systems in the body.

(2) An estimated 5,300,000 Americans have Alzheimer's disease and 1 in 10 individuals has a family member with the disease. By 2050, the number of individuals with the disease could reach 16,000,000 unless science finds a way to prevent or cure the disease.

(3) One in 8 people over the age of 65, and nearly half of those over the age of 85 have Alzheimer's disease. Younger people also get the disease.

(4) The Alzheimer's disease process may begin in the brain as many as 20 years before the symptoms of Alzheimer's disease appear. An individual will live an average of 4 to 6 years, and as many as 20 years, once the symptoms of Alzheimer's disease appear.

(5) In 2005, Medicare alone spent $91,000,000,000 for the care of individuals with Alzheimer's disease and this amount is projected to increase to $160,000,000,000 in 2010.

(6) Ninety-five percent of Medicare beneficiaries with Alzheimer's disease have one or more other chronic conditions that are common in the elderly, such as coronary heart disease (26 percent), congestive heart failure (16 percent), diabetes (23 percent), and chronic obstructive pulmonary disease (15 percent).

(7) Seven in 10 individuals with Alzheimer's disease live at home. Cost for care at home is higher for people with Alzheimer's disease than other individuals. Almost all families pay some out-of-pocket costs.

(8) Half of all nursing home residents have Alzheimer's disease or a related disorder. The average annual cost of Alzheimer's disease nursing home care is more than $77,000. Medicaid pays half of the total nursing home bill and helps 2 out of 3 residents pay for their care. Medicaid expenditures for nursing home care for people with Alzheimer's disease are estimated to increase from $21,000,000,000 in 2005 to $24,000,000,000 in 2010.

(9) In fiscal year 2007, the Federal Government spent an estimated $411,000,000 on Alzheimer's disease research. Over the next 40 years, Alzheimer's disease-related costs to Medicare and Medicaid alone are projected to total $20,000,000,000,000 in constant dollars, rising to over $1,000,000,000,000 per year by 2050. This amounts to less than a penny spent on Alzheimer's disease research for each dollar that the Federal Government spends on Alzheimer's disease-related costs each year.

(10) It is estimated that the annual value of the informal care system is $94,000,000,000. Family caregiving comes at enormous physical, emotional, and financial sacrifice, putting the whole system at risk.

(11) Almost 60 percent of caregivers of individuals with Alzheimer's disease are women, and over one-fourth have children or grandchildren under the age of 18 living at home. Caregiving leaves them less time for other family members and they are much more likely to report family conflicts because of their caregiving role.

(12) Most Alzheimer's disease caregivers work outside the home before beginning their caregiving careers, but caregiving forces them to miss work, cut back to part-time, take less demanding jobs, choose early retirement, or give up work altogether. As a result, in 2002, Alzheimer's disease cost American business an estimated $36,500,000,000 in lost productivity, as well as an additional $24,600,000,000 in business contributions to the total cost of care.

TITLE I—INCREASING THE FEDERAL COMMITMENT TO ALZHEIMER'S RESEARCH

SEC. 101. DOUBLING NIH FUNDING FOR ALZHEIMER'S DISEASE RESEARCH.

For the purpose of conducting and supporting research on Alzheimer's disease (including related activities under subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et seq.)), there are authorized to be appropriated $2,000,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.

SEC. 102. PRIORITY TO ALZHEIMER'S DISEASE RESEARCH.

Section 443 of the Public Health Service Act (42 U.S.C. 285e) is amended—

(1) by striking ''The general'' and inserting the following:

''(a) IN GENERAL.—The general;'' and

(2) by adding at the end the following:

''(b) PRIORITIES.—The Director of the Institute shall, in expending amounts appropriated to carry out this subpart, give priority to conducting and supporting Alzheimer's disease research.''.

SEC. 103. ALZHEIMER'S DISEASE PREVENTION INITIATIVE.

Section 443 of the Public Health Service Act (42 U.S.C. 285e), as amended by section 102, is further amended by adding at the end the following:

''(c) PREVENTION TRIALS.—The Director of the Institute shall increase the emphasis on the need to conduct Alzheimer's disease prevention trials within the National Institutes of Health.

''(d) NEUROSCIENCE INITIATIVE.—The Director of the Institute shall ensure that Alzheimer's disease is maintained as a high priority for the neuroscience initiative of the National Institutes of Health.''.

SEC. 104. ALZHEIMER'S DISEASE CLINICAL RESEARCH.

(a) CLINICAL RESEARCH.—Subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et seq.) is amended by adding at the end the following:

''SEC. 445J. ALZHEIMER'S DISEASE CLINICAL RESEARCH.

''(a) IN GENERAL.—The Director of the Institute, pursuant to section 444(d), shall conduct and support cooperative clinical research regarding Alzheimer's disease. Such research shall include—

''(1) investigating therapies, interventions, and agents to detect, treat, slow the progression of, or prevent Alzheimer's disease;

''(2) enhancing the national infrastructure for the conduct of clinical trials on Alzheimer's disease;

''(3) developing and testing novel approaches to the design and analysis of such trials;

''(4) facilitating the enrollment of patients for such trials, including patients from diverse populations;

''(5) developing improved diagnostics and means of patient assessment for Alzheimer's disease;

''(6) the conduct of clinical trials on potential therapies, including readily available compounds such as herbal remedies and other alternative treatments;

''(7) research to develop better methods of early diagnosis, including the use of current imaging techniques; and

''(8) other research, as determined appropriate by the Director of the Institute after consultation with the Alzheimer's disease centers and Alzheimer's disease research centers established under section 445.

''(b) EARLY DIAGNOSIS AND DETECTION RESEARCH.—

''(1) IN GENERAL.—The Director of the Institute, in consultation with the directors of other relevant institutes and centers of the National Institutes of Health, shall conduct, or make grants for the conduct of, research related to the early detection, diagnosis, and prevention of Alzheimer's disease and of mild cognitive impairment or other potential precursors to Alzheimer's disease.

''(2) EVALUATION.—The research described in paragraph (1) may include the evaluation of diagnostic tests and imaging techniques.

''(3) STUDY.—Not later than 1 year after the date of enactment of this section, the Director of the Institute, in cooperation with the heads of other relevant Federal agencies, shall conduct a study, and submit to Congress a report, to estimate the number of individuals with early-onset Alzheimer's disease (those diagnosed before the age of 65) and related dementias in the United States, the causes of early-onset dementia, and the unique problems faced by such individuals, including problems accessing government services.

''(c) VASCULAR DISEASE.—The Director of the Institute, in consultation with the directors of other relevant institutes and centers of the National Institutes of Health, shall conduct, or make grants for the conduct of, research related to the relationship of vascular disease and Alzheimer's disease, including clinical trials to determine whether drugs developed to prevent cerebrovascular disease can prevent the onset or progression of Alzheimer's disease.

''(d) TREATMENTS AND PREVENTION.—The Director of the Institute shall place special emphasis on expediting the translation of research findings under this section into effective treatments and prevention strategies for individuals at risk of Alzheimer's disease and other dementias.

''(e) NATIONAL ALZHEIMER'S COORDINATING CENTER.—The Director of the Institute may establish a National Alzheimer's Coordinating Center to facilitate collaborative research among the Alzheimer's Disease Centers and Alzheimer's Disease Research Centers established under section 445.''.

(b) ALZHEIMER'S DISEASE CENTERS.—Section 445(a)(1) of the Public Health Service Act (42 U.S.C. 285e–2(a)(1)) is amended by inserting '', outcome measures, and disease management,'' after ''treatment methods''.

SEC. 105. RESEARCH ON ALZHEIMER'S DISEASE CAREGIVING.

Section 445C of the Public Health Service Act (42 U.S.C. 285e–5) is amended—

(1) by striking ''SEC. 445C. RESEARCH PROGRAM AND PLAN (a)'' and inserting the following:

''SEC. 445C. RESEARCH ON ALZHEIMER'S DISEASE SERVICES AND CAREGIVING.

''(a) SERVICES RESEARCH.—'';

(2) by striking subsections (b), (c), and (e);

(3) by inserting after subsection (a) the following:

''(b) INTERVENTIONS RESEARCH.—The Director of the Institute shall, in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, conduct, or make grants for the conduct of, clinical, social, and behavioral research related to interventions designed to help caregivers of patients with Alzheimer's disease and other dementias and improve patient outcomes.'';

(4) by redesignating subsection (d) as subsection (c); and

(5) in subsection (c) (as redesignated by paragraph (4)), by striking ''the Director'' and inserting ''MODEL CURRICULA AND TECHNIQUES.—The Director''.

SEC. 106. NATIONAL SUMMIT ON ALZHEIMER'S DISEASE.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall convene a National Summit on Alzheimer's Disease to—

(1) provide a detailed overview of current research activities relating to Alzheimer's disease at the National Institutes of Health; and

(2) discuss and solicit input related to potential areas of collaboration between the National Institutes of Health and other Federal health agencies, including the Centers for Disease Control and Prevention, the Administration on Aging, the Agency for Healthcare Research and Quality, and the Health Resources and Services Administration, related to research, prevention, and treatment of Alzheimer's disease.

(b) PARTICIPANTS.—The summit convened under subsection (a) shall include researchers, representatives of academic institutions, Federal and State policymakers, public health professionals, and representatives of voluntary health agencies as participants.

(c) FOCUS AREAS.—The summit convened under subsection (a) shall focus on—

(1) a broad range of Alzheimer's disease research activities relating to biomedical research, prevention research, and caregiving issues;

(2) clinical research for the development and evaluation of new treatments for Alzheimer's disease;

(3) translational research on evidence-based and cost-effective best practices in the treatment and prevention of Alzheimer's disease;

(4) information and education programs for health care professionals and the public relating to Alzheimer's disease;

(5) priorities among the programs and activities of the various Federal agencies regarding Alzheimer's disease and other dementias; and

(6) challenges and opportunities for scientists, clinicians, patients, and voluntary organizations relating to Alzheimer's disease.

(d) REPORT.—Not later than 180 days after the date on which the summit is convened under subsection (a), the Director of the National Institutes of Health shall prepare and submit to the appropriate committees of Congress a report that includes a summary of the proceedings of the summit and a description of Alzheimer's disease research, education, and other activities that are conducted or supported through the National Institutes of Health.

(e) PUBLIC INFORMATION.—The Secretary shall make readily available to the public information about the research, education, and other activities relating to Alzheimer's disease and other related dementias, that are conducted or supported by the National Institutes of Health.

TITLE II—PUBLIC HEALTH PROMOTION AND PREVENTION OF ALZHEIMER'S DISEASE

SEC. 201. ENHANCING PUBLIC HEALTH ACTIVITIES RELATED TO COGNITIVE HEALTH, ALZHEIMER'S DISEASE, AND OTHER DEMENTIAS.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended—

(1) by redesignating the second and third sections 399R as sections 399S and 399T, respectively; and

(2) by adding at the end the following:

''SEC. 399U. ALZHEIMER'S DISEASE PUBLIC EDUCATION CAMPAIGN.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall directly or through grants, cooperative agreements, or contracts to eligible entities—

''(1) conduct, support, and promote the coordination of research, investigations, demonstrations, training, and studies relating to the control, prevention, and surveillance of the risk factors associated with cognitive health, Alzheimer's disease, and other dementias; and

''(2) seek early recognition of, and early intervention in the course of, Alzheimer's disease and other dementias.

''(b) CERTAIN ACTIVITIES.—Activities under subsection (a) shall include—

''(1) providing support for the dissemination and implementation of the Roadmap to Maintaining Cognitive Health of the Centers for Disease Control and Prevention to effectively mobilize the public health community into action;

''(2) the development of coordinated public education programs, services, and demonstrations which are designed to increase general awareness of cognitive function and promote a brain healthy lifestyle;

''(3) the development of targeted communication strategies and tools to educate health professionals and service providers about the early recognition, diagnosis, care, and management of Alzheimer's disease and other dementias, and to provide consumers with information about interventions, products, and services that promote cognitive health and assist consumers in maintaining current understanding about cognitive health based on the best science available; and

''(4) providing support for the collection, publication, and analysis of data and the prevalence and incidence of cognitive health, Alzheimer's disease, and other dementias, and the evaluation of existing population-based surveillance systems (such as the Behavioral Risk Factors Surveillance Survey (BRFSS) and the National Health Interview Survey (NHIS)) to identify limitations that exist in the area of cognitive health, and if necessary, the development of a surveillance system for cognitive decline, including Alzheimer's disease and other dementias.

''(c) GRANTS.—The Secretary may award grants under this section—

''(1) to State and local health agencies for the purpose of—

''(A) coordinating activities related to cognitive health, Alzheimer's disease, and other dementias with existing State-based health programs and community-based organizations;

''(B) providing Alzheimer's disease education and training opportunities and programs for health professionals; and

''(C) developing, testing, evaluating, and replicating effective Alzheimer's disease intervention programs to maintain or improve cognitive health; and

''(2) to nonprofit private health organizations with expertise in providing care and services to individuals with Alzheimer's disease for the purpose of—

''(A) disseminating information to the public;

''(B) testing model intervention programs to improve cognitive health; and

''(C) coordinating existing services related to cognitive health, Alzheimer's disease, and other dementias with State-based health programs.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $15,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.''.

TITLE III—ASSISTANCE FOR CAREGIVERS

SEC. 301. ALZHEIMER'S CALL CENTER.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 201, is further amended by adding at the end the following:

''SEC. 399V. ALZHEIMER'S CALL CENTER.

''(a) IN GENERAL.—The Secretary, acting through the Administration on Aging, shall award a cooperative grant to a non-profit or community-based organization to support the establishment and operation of an Alzheimer's Call Center that is accessible 24 hours a day, 7 days a week, at the national and local levels, to provide expert advice,

care consultation, information, and referrals regarding Alzheimer's disease.

''(b) ACTIVITIES.—The Alzheimer's Call Center established under subsection (a) shall—

''(1) collaborate with the Administration on Aging in the development, modification, and execution of the Call Center's work plan;

''(2) assist the Administration on Aging in developing and sustaining collaborations between the Call Center, the Eldercare Locator of the Administration of Aging, and the grantees under the Alzheimer's disease demonstration program under subpart II of part K;

''(3) provide a 24 hours a day, 7 days a week toll-free call center with trained professional staff who are available to provide care consultation and crisis intervention to individuals with Alzheimer's disease and other dementias, their family and informal caregivers, and others as appropriate;

''(4) be accessible by telephone through a single toll-free telephone number, website, and e-mail address; and

''(5) evaluate the impact of the Call Center's activities and services.

''(c) MULTILINGUAL CAPACITY.—The Call Center established under this section shall have a multilingual capacity and shall respond to inquiries in at least 140 languages through its own bilingual staff and with the use of a language translation service.

''(d) RESPONSE TO EMERGENCY AND ONGOING NEEDS.—The Call Center established under this section shall collaborate with community-based organizations, including non-profit agencies and organizations, to ensure local, on-the-ground capacity to respond to emergency and on-going needs of individuals with Alzheimer's disease and other dementias, their families, and informal caregivers.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $1,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.''.

SEC. 302. INNOVATIVE ALZHEIMER'S CARE STATE MATCHING GRANT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 398B(e) of the Public Health Service Act (42 U.S.C. 280c–5(e)) is amended—

(1) by striking ''and such'' and inserting ''such''; and

(2) by inserting before the period the following: '', $25,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014''.

(b) PROGRAM EXPANSION.—Section 398(a) of the Public Health Service Act (42 U.S.C. 280c–3(a)) is amended—

(1) in paragraph (2), by inserting after ''other respite care'' the following: ''and care consultation, including assessment of needs, assistance with planning and problem solving, and providing supportive listening,'';

(2) in paragraph (3), by striking ''; and'' and inserting the following: '', and individuals in frontier areas (in this subsection, defined as areas with 6 or fewer people per square mile or areas in which residents must travel at least 60 minutes or 60 miles to receive health care services);'';

(3) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(5) to encourage grantees under this section to coordinate activities with other State officials administering efforts to promote long-term care options that enable older individuals to receive long-term care in home- and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers;

''(6) to encourage grantees under this section to—

''(A) engage in activities that support early detection and diagnosis of Alzheimer's disease and other dementias;

''(B) provide training about how Alzheimer's disease can affect behavior and impede communication in medical and community settings to—

''(i) medical personnel, including hospital staff, emergency room personnel, home health care workers and physician office staff;

''(ii) rehabilitation services providers; and

''(iii) caregivers of individuals with Alzheimer's disease;

''(C) develop guidelines to provide the medical community with up-to-date information about the best methods of care for individuals with Alzheimer's disease;

''(D) inform community physicians about available resources to assist the physician in detecting and managing Alzheimer's disease; and

''(E) raise awareness among community physicians about the availability of community-based organizations which can assist individuals with Alzheimer's disease and their caregivers;

''(7) to encourage grantees under this section to engage in activities that use findings from evidence-based research on service models and techniques to support individuals with Alzheimer's disease and their caregivers; and

''(8) to encourage grantees under this section to incorporate best practices for effectively serving individuals with Alzheimer's disease in community-based settings into systems initiatives and long-term care activities.''.

By Mr. MCCONNELL:

S. 1493. A bill to designate the current and future Department of Veterans Affairs Medical Center in Louisville, Kentucky, as the ''Robley Rex Department of Veterans Affairs Medical Center''; to the Committee on Veterans' Affairs.

Mr. MCCONNELL. Mr. President, I rise today to introduce legislation to honor a Kentuckian who is a true American hero: Robley Henry Rex.

When Robley passed away in April of this year just a few days shy of his 108th birthday, he was recognized across my State as Kentucky's last World War I-era veteran and hailed as a champion of his fellow service members.

Ninety years ago, Robley bravely put on his country's uniform and left Christian County, KY, where he was born and raised, to patrol the hills of France in the immediate aftermath of what was then called The Great War. After leaving the Army in 1922, he returned to the Commonwealth.

In the years following his Army service, Robley began volunteering at the Louisville Veterans Affairs Medical Center, VAMC. He would go on to devote over 14,000 hours of service, right up until the last years of his long and productive life.

My legislation would name the current VA hospital in Louisville after Robley Rex. It also ensures that when a new VAMC is built, that future facility will also bear his name.

The idea to name this facility after Kentucky's pre-eminent volunteer on behalf of veterans came from a constituent of mine, himself also a veteran. Moreover, the Kentucky Department of Veterans of Foreign Wars had the very same idea and endorsed the proposal during its recent state convention. I'm just pleased that as a Kentucky Senator, I am in a position to make it happen.

I can't think of a more appropriate person to name the facility after than Robley Rex. And I can't think of a more appropriate source for the idea than the Kentucky veterans community.

The new VAMC will be vital to Kentucky's veterans, as well as to Louisville's economy. Once complete, the VA hospital will ensure that the men and women who served our country will receive the quality health care they deserve.

That devotion to ensuring quality care to our veterans is exemplified in the life and service of Robley Rex. How fitting that his fellow veterans—so many of whom knew Robley personally from his countless hours of volunteer service—will see his name above the door.

Finally, I note that this is bipartisan legislation. It enjoys the support of Representatives JOHN YARMUTH and BEN CHANDLER in the other chamber. I ask my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1493

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

SECTION 1. DESIGNATION OF ROBLEY REX DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

(a) DESIGNATION.—The Department of Veterans Affairs Medical Center in Louisville, Kentucky, and any successor to such medical center, shall after the date of the enactment of this Act be known and designated as the ''Robley Rex Department of Veterans Affairs Medical Center''.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Robley Rex Department of Veterans Affairs Medical Center.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 1497. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt bond financing for fixed-wing emergency medical aircraft; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise to introduce legislation that will remove an unintended obstacle in the tax-exempt bond rules so that states can use these bonds to finance the purchase of fixed-wing air ambulances in the same way they can now use them to finance the purchase of medical helicopters.

The difference between a medical helicopter and a fixed wing air ambulance

may seem minor to some, but if you live in a remote area the difference can be as big as life or death.

Air medical services, AMS, are an essential component of the health care system. When appropriately used, air critical care transport saves lives and reduces the cost of health care by minimizing the time the critically injured and ill spend out of a hospital, by bringing more medical capabilities to the patient than are normally provided by ground emergency medical services, and by quickly getting the patient to the right specialty care. Dedicated medical helicopters and fixed wing aircraft are mobile flying emergency intensive care units deployed at a moment's notice to patients whose lives depend on rapid care and transport.

In remote rural areas, the use of helicopters often is impractical and unsafe because of the long distances that patients must be transported, sometimes during poor weather conditions. In these situations, the better alternative is a fixed-wing aircraft.

Both helicopters and fixed wing aircraft cost millions of dollars to purchase or lease, operate, house and maintain. But under the way that the tax-exempt bond rules currently work, states are prohibited from using these bonds to finance air ambulance services in rural areas, even though they can use these bonds for helicopters. This result was not what Congress intended, and our bill would make that clear.

Under current law, tax-exempt bonds can not be issued for the purchase of any ''airplane, skybox or other privacy luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.'' The restrictions were enacted in order to prevent tax-exmpt bonds to be used for frivolous or extravagant purposes. Unfortunately, the law has been interpreted to exclude the purchase of new fixed-wing planes to provide air ambulance services, but the purchase of helicopters—which are not airplanes—is permitted.

This result is not what was intended by the restrictions and our bill would simply make it clear that the general restriction against the use of tax-exempt bonds for purchasing an airplane does not apply in the case of planes that are equipped for and exclusively dedicated to emergency medical services.

There is supporting precedent in distinguishing planes for air ambulance services different than other airplanes. The air transportation excise tax provides an exemption for air transportation that is used to provide ''emergency medical services . . . by a fixed-wing aircraft equipped for and exclusively dedicated on that flight to acute care emergency medical services.''

This issue hits close to home for me and my colleagues who are joining me on this legislation, but we are certainly not alone with respect to the need to ensure that folks in our rural and remote areas have access to needed medical services.

Inland Northwest Health Services, INHS, is a non-profit organization that provides critical health care support services in the Inland Northwest, including air ambulance services through Northwest MedStar. INHS is based in Spokane, Washington, and provides health care services in Eastern Washington, Eastern Oregon, Northern Idaho, and Western Montana. Unfortunately, this unintended restriction in the tax code is preventing INHS from asking the appropriate state authorities to issue tax-exempt bonds to finance the purchase of new fixed-wing planes for air ambulance service.

The legislation that I am introducing with Senator MURRAY is a commonsense fix to this problem, and I hope we can address it quickly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1497

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

SECTION 1. TAX-EXEMPT BOND FINANCING FOR FIXED-WING EMERGENCY MEDICAL AIRCRAFT.

(a) IN GENERAL.—Subsection (e) of section 147 of the Internal Revenue Code of 1986 (relating to no portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to any fixed-wing aircraft equipped for, and exclusively dedicated to providing, acute care emergency medical services (within the meaning of 4261(g)(2)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

By Mr. CASEY (for himself and Mr. ENZI):

S. 1502. A bill to establish a program to be managed by the Department of Energy to ensure prompt and orderly compensation for potential damages relating to the storage of carbon dioxide in geological storage units; to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, I rise today on behalf of myself and my colleague Senator ENZI of Wyoming to introduce the Carbon Storage Stewardship Trust Fund Act of 2009. This bill will encourage the commercial deployment of technology that will allow for the continued use of our Nation's vast coal resources to produce economical and reliable power while at the same time mitigating the impact of climate change.

The capture and storage of carbon dioxide from power generation facilities and large industrial sources is a critical component of both U.S. and international policy to reduce global emissions of greenhouse gases. The criticality of this technology has been driven home by the Pew Center on Global Climate Change which has pointed out that ''carbon capture and storage, CCS, is the key enabling technology for a future in which we can continue to use our vast coal resources and protect the climate.'' And former British Prime Minister Tony Blair stated in November, 2008, that ''the vast majority of new power stations in China and India will be coal fired; not ''may be coal fired''- will be. So developing carbon capture and storage technology is not optional, it is literally the essence.''

The commercial deployment of CCS will require further large-scale development and demonstration of the technology. Just as important, however, it will also require a well thought out approach to address the risk and liability of injecting large volumes of CO_2 into geological formations, such as saline aquifers, depleted oil and gas fields, and unminable coal seams, where it will be permanently stored.

The risk of geological CO_2 storage, also commonly known as carbon sequestration, is considered small. In fact, CO_2 has been safely injected into oil and gas fields to enhance the recovery of these hydrocarbons for decades without incident. While the potential for CO_2 to leak to the surface and cause human or ecological harm in a well designed and operated carbon sequestration project is minimal, the financial liability associated with this risk is uncertain given the huge disparity between the typical lifetime of a firm operating a storage facility and the need to ensure the safe storage of CO_2 in perpetuity. This uncertainty can cause a chilling effect on private sector investment in CCS.

The purpose of this act is to create a program for managing the financial risk, or liability, of the long-term storage of CO_2 . This program will offer the private sector with a framework for how legal and financial responsibilities for commercial carbon storage operations will be addressed. Moreover, it will provide a strong incentive to industry to manage and reduce risk by deploying carbon sequestration in the safest possible manner.

Specifically, the act will require the owner or operator of a commercial CO_2 storage facility to self insure or obtain private insurance or other types of financial assurance to cover liability claims during the CO_2 injection phase of the project and for an extended period of time after injection has stopped. After the operator has received a site closure certificate from the appropriate regulatory agency, the act would then convey stewardship for the long-term management of the site to the U.S. Department of Energy. The State where the storage facility is located may request to take on stewardship for the site from the Department of Energy. The act will also create a trust fund from fees paid by storage facility operators on a per ton of CO_2 injected basis that will be used to pay for

claims for damages made after storage facility stewardship is transferred to the Federal government.

In summary, this act will give the private sector the certainty they need regarding the longterm stewardship of CO_2 storage facilities. Just as important, it will strongly encourage the safe and responsible operation of these facilities while ensuring the prompt and orderly compensation for damages or harm to humans, to the environment, and to natural resources, should they occur, from the injection and storage of CO_2 in geological formations.

I urge all of my colleagues to join Senator ENZI and me in support of this act so that a clear signal is given about our commitment to the development, demonstration, and ultimately, the widespread commercial deployment of CCS technology as a key component of the Nation's strategy to reduce emissions of CO_2.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1502

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 ''Carbon Storage Stewardship Trust Fund Act of 2009''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to promote the commercial deployment of carbon capture and storage as an essential component of a national climate mitigation strategy;

(2) to require private liability assurance during the active project period of a carbon dioxide storage facility;

(3) to establish a Federal trust fund consisting of amounts received as fees from operators of carbon dioxide storage facilities;

(4) to establish a limit on liability for damages caused by injection of carbon dioxide by carbon dioxide storage facilities subject to certificates of closure;

(5) to establish a program—

(A) to certify the closure of commercial carbon dioxide storage facilities; and

(B) to provide for the transfer of long-term stewardship to the Federal Government for carbon dioxide storage facilities on the issuance of certificates of closure for the facilities;

(6) to provide for the prompt and orderly compensation for damages relating to the storage of carbon dioxide; and

(7) to protect the environment and public by providing long-term stewardship of geological storage units.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACTIVE PROJECT PERIOD.—The term ''active project period'' means the phases of the carbon dioxide storage facility through receipt of a certificate of closure, including—

(A) the siting and construction of the facility;

(B) carbon dioxide injection;

(C) well capping;

(D) facility decommissioning; and

(E) geological storage unit monitoring, measurement, verification, and remediation.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) CARBON DIOXIDE STORAGE FACILITY.—The term ''carbon dioxide storage facility'' means a facility that receives and permanently stores or sequesters carbon dioxide within a geological storage unit, including carbon dioxide permanently stored as a result of enhanced hydrocarbon recovery.

(4) CERTIFICATE OF CLOSURE.—The term ''certificate of closure'' means a determination issued by the Administrator or other Federal or State regulatory authority with respect to a carbon dioxide storage facility that certifies that the operator of the carbon dioxide storage facility has completed injection operations, well closure, and any required monitoring and remediation to ensure that any carbon dioxide injected into a geological storage unit would not harm or present a risk to human health, safety, and the environment, including drinking water supplies.

(5) CIVIL CLAIM.—The term ''civil claim'' means a claim, cause of action, lawsuit, judgment, court order, administrative order, government or agency order, fine, penalty, or notice of violation, for civil relief with respect to damages or harm to persons, property, or natural resources from the injection of carbon dioxide by a carbon dioxide storage facility.

(6) DAMAGE.—

(A) IN GENERAL.—The term ''damage'' means any direct or indirect damage or harm to persons, property, or natural resources from the injection of carbon dioxide into geological storage units.

(B) INCLUSIONS.—The term ''damage'' includes personal injury, sickness, real or personal property damage, natural resource damage, trespass, subsidence losses, revenue losses, and loss of profits.

(7) ENHANCED HYDROCARBON RECOVERY.—The term ''enhanced hydrocarbon recovery'' means the use of carbon dioxide to improve or enhance the recovery of oil or natural gas from oil or natural gas fields.

(8) FUND.—The term ''Fund'' means the Carbon Storage Trust Fund established by section 5(d)(1).

(9) GEOLOGICAL STORAGE UNIT.—The term ''geological storage unit'' includes saline formations, hydrocarbon formations, basalt formations, salt caverns, unmineable coal seams, or any other geological formation capable of permanently storing carbon dioxide.

(10) LIABILITY ASSURANCE.—The term ''liability assurance'' means privately funded financial mechanisms, including third-party insurance, self-insurance, performance bonds, trust funds, letters of credit, and surety bonds.

(11) LONG-TERM STEWARDSHIP.—The term ''long-term stewardship'' means the monitoring, measurement, verification, and remediation and related activities associated with a carbon dioxide storage facility after issuance of a certificate of closure.

(12) PROGRAM.—The term ''Program'' means the Carbon Storage Stewardship and Trust Fund Program established by section 5(a).

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 4. LONG-TERM STEWARDSHIP RESPONSIBILITY.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall be responsible for the long-term stewardship of a carbon dioxide storage facility on the issuance of a certificate of closure for the carbon dioxide storage facility.

(b) TRANSFER TO STATE.—

(1) IN GENERAL.—A State may request that the management responsibilities associated with long-term stewardship of a carbon dioxide storage facility located in the State be transferred to the State in accordance with regulations established by the Secretary.

(2) APPROVAL OF REQUEST.—If the Secretary approves a request under paragraph (1), the State shall be responsible for the long-term stewardship of the applicable carbon dioxide storage facility beginning on the date of the approval in accordance with applicable Federal and State laws (including regulations).

(3) FAILURE TO ACT BY STATE.—In accordance with any regulations established under paragraph (1), if the Secretary determines that a State that has accepted management responsibilities under paragraph (1) has failed to carry out the responsibilities of the State with respect to the carbon dioxide storage facility, the Secretary shall assume long-term stewardship of the carbon dioxide storage facility as soon as practicable after the date of the determination.

(c) STANDARDS.—The Secretary, in coordination with the Administrator, shall establish standards for any monitoring, measurement, verification, and site remediation activities necessary to protect health, safety, and the environment during long-term stewardship performed by a State or the Federal Government.

(d) COORDINATION WITH ADMINISTRATOR.—If long-term stewardship is vested with the Secretary, the Secretary may coordinate responsibility for site monitoring, measurement, verification, and remediation and related activities with the Administrator.

SEC. 5. CARBON STORAGE STEWARDSHIP AND TRUST FUND PROGRAM.

(a) IN GENERAL.—There is established in the Department of Energy the Carbon Storage Stewardship and Trust Fund Program.

(b) LIABILITY ASSURANCE REQUIRED FOR OPERATORS OF COMMERCIAL CARBON DIOXIDE STORAGE FACILITIES.—Notwithstanding any other provision of Federal or State law, in carrying out the Program, the Secretary shall require operators of carbon dioxide storage facilities to maintain adequate liability assurance during the active project period.

(c) FEES.—

(1) IN GENERAL.—In carrying out the Program, the Secretary shall require operators of carbon dioxide storage facilities to pay a risk-based fee, in an amount to be established in accordance with paragraph (2), for each ton of carbon dioxide injected by the carbon dioxide storage facility into geological storage units during the operation phase of the facility.

(2) AMOUNT.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act and after taking into account the criteria described in subparagraph (B), the Secretary shall establish—

(i) the minimum and maximum balance for the Fund; and

(ii) the amount of the fee required under paragraph (1).

(B) CRITERIA.—The criteria referred to in subparagraph (A) are—

(i) the estimated quantity of carbon dioxide to be injected annually into geological storage units by all operating commercial carbon dioxide storage facilities;

(ii) the likelihood or risk of an incident resulting in liability;

(iii) the likely dollar value of any damages relating to an incident;

(iv) other factors relating to the risk of the carbon dioxide storage facility and associated geological storage unit; and

(v) impact on commercial and economic viability of carbon dioxide storage facilities.

(C) CONSIDERATIONS.—In establishing the amount of the fee under subparagraph (A)(ii), the Secretary may consider using a fee system that is based on the level of risk associated with a specific geological storage unit to provide an incentive for the selection and

operation of the best carbon dioxide storage facilities.

(D) ENHANCED HYDROCARBON RECOVERY.—The Secretary shall determine the most appropriate approach for charging a fee on the quantity of carbon dioxide injected into oil and gas fields, after taking into consideration—

(i) the quantity of carbon dioxide that is permanently stored;

(ii) whether or not the enhanced hydrocarbon recovery operation is also being operated as a carbon dioxide storage facility; and

(iii) any other factors that the Secretary determines to be appropriate.

(E) REVIEW AND ADJUSTMENT.—The Secretary shall, on at least an annual basis, review the Fund balance—

(i) to ensure that there are sufficient amounts in the Fund to make the payments required under subsection (d)(3)(A); and

(ii) to determine whether or not to increase or decrease the amount, or discontinue collection, of the fee, after taking into consideration—

(I) the annual quantity of carbon dioxide injected by carbon dioxide storage facilities;

(II) the number and estimated value of claims against the Fund; and

(III) any other relevant factors, as determined by the Secretary.

(3) DEPOSIT.—Notwithstanding section 3302 of section 31, United States Code, the fees collected under paragraph (1) shall be deposited in the Fund.

(d) CARBON STORAGE TRUST FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Carbon Storage Trust Fund'', consisting of such amounts as are deposited under subsection (c)(3).

(2) USE OF FUND.—

(A) IN GENERAL.—Amounts in the Fund shall be made available, without further appropriation or fiscal year limitation—

(i) to the Secretary for the payment of civil claims from a carbon dioxide storage facility that are brought after a certificate of closure for the carbon dioxide storage facility has been issued;

(ii) to the Secretary for long-term stewardship after the date of issuance of a certificate for closure; and

(iii) to the Secretary or other appropriate regulatory authority to pay any reasonable and verified administrative costs incurred by the Secretary or regulatory authority in carrying out the Program.

(B) LIMITATION.—Amounts in the Fund shall only be used for the purposes described in clause (i), (ii), or (iii) of subparagraph (A).

(C) LIMITATION ON PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an aggregate claim for damages brought under subparagraph (A)(i) shall be limited to an amount to be established by the Secretary as soon as practicable after the date of enactment of this Act, based on mechanisms such as—

(I) actuarial modeling of probable damage; and

(II) net present value analysis.

(ii) CONGRESSIONAL ACTION.—If estimated or actual aggregate damages exceed the amount established under clause (i)—

(I) the Secretary shall notify Congress; and

(II) on receipt of notice under subclause (I), Congress may provide for payments in excess of that amount, in accordance with guidelines established by Congress by law.

(D) EXCEPTION FOR GROSS NEGLIGENCE AND INTENTIONAL MISCONDUCT.—Notwithstanding subparagraph (A), no amounts in the Fund shall be used to pay a claim for liability arising out of conduct of an operator of a carbon dioxide storage facility that is grossly negligent or that constitutes intentional misconduct, as determined by the Secretary.

(E) PROCEDURES FOR ADJUDICATION OF CLAIMS.—Claims of damage brought under subparagraph (A)(i) relating to carbon dioxide in a carbon dioxide storage facility subject to a certificate of closure shall be—

(i) filed in the United States Court of Federal Claims; and

(ii) adjudicated in accordance with procedures established by the United States Court of Federal Claims.

(3) INITIAL FUNDING.—

(A) IN GENERAL.—If sufficient amounts are not available in the Fund to cover potential claims during the first years of the Program, the Secretary may request from the Secretary of the Treasury an interest-bearing advance in funding from the Treasury to carry out the Program, subject to subparagraph (B).

(B) TERMS AND CONDITIONS.—The terms and conditions for the repayment of an advance under subparagraph (A) shall be specified by the Secretary of the Treasury.

SEC. 6. LIMITATION ON CIVIL CLAIMS.

(a) IN GENERAL.—Except as provided in subsection (b), on issuance of a certificate of closure, a civil claim or claim for the performance of long-term stewardship responsibilities under applicable Federal and State law, may not be brought against—

(1) the operator or owner of the carbon dioxide storage facility subject to the certificate of closure;

(2) the generator of the carbon dioxide stored in the applicable geological storage unit; or

(3) the owner or operator of the pipeline used to transport the carbon dioxide to the carbon dioxide storage facility subject to the certificate of closure.

(b) EXCEPTION.—Subsection (a) shall not apply in the case of a civil claim involving the gross negligence or intentional misconduct of an owner, operator, or generator.

Mr. ENZI. Mr. President, we need clean energy. We need cheap energy. We need abundant energy from right here at home. Why not concentrate some of our efforts on hitting a triple play?

Coal is our Nation's most abundant energy source. It provides more than 50 percent of our Nation's electricity today and makes electricity more affordable for millions of Americans. It provides for thousands of well paying American jobs and is an essential part of my home State's economy.

Unfortunately, in the discussions surrounding climate change, some have suggested that we should end our Nation's use of coal. Because of the abundant, cost-effective nature of this resource, that doesn't make sense. Instead of talking about eliminating one of our country's most important energy sources, we should be talking about how we can make coal cleaner.

An essential element of the effort to make coal cleaner will be the development of carbon capture and storage, CCS, technology. There are many pieces to that effort, and today, Senator CASEY and I have introduced The Carbon Storage Stewardship Trust Fund Act of 2009 to address one issue with CCS liability for the stored CO_2.

Our legislation sets up a framework that answers the question of who is responsible for the CO_2 once it is placed underground. The Carbon Storage Stewardship Trust Fund Act of 2009 requires companies injecting CO_2 into the ground to obtain private liability insurance for a period of time. After the CO_2 is injected and the injection site is certified as closed by the Federal Government, liability for the CO_2 is transferred to the Federal Government.

To cover any claims that may arise from damages caused by the injected CO_2, the bill sets up a Federal trust fund that is paid for through a small fee charged for each ton of CO_2 that is injected. Additionally, it provides a method for compensation for those damages.

While this legislation is far from everything we need to make commercial CCS a reality, it is an important step and answers an important question about long-term liability of CO_2. I appreciate Senator CASEY's leadership on this issue and look forward to working with him and other Members of the Senate to move this legislation forward.

Mr. SPECTER:

S. 1504. A bill to provide that Federal courts shall not dismiss complaints under rule 12(b)(6) or (e) of the Federal Rules of Civil Procedure, except under the standards set forth by the Supreme Court of the United States in *Conley* v. *Gibson*, 355 U.S. 41 (1957); to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition to speak on legislation I am introducing that will restore the system of notice pleading that has served our Federal judicial system well since 1938, the year the Federal Rules of Civil Procedure were adopted.

Civil litigation in our Federal system is commenced by the filing a complaint that puts the defendant on notice of the plaintiffs claims. Rule 8(a)(2) of the Federal Rules of Civil Procedure provides that a complaint need only contain a ''short and plain statement of the claim showing the pleader'', usually the plaintiff, ''is entitled to relief.'' This is not a demanding standard. An appendix to the Rules includes a form complaint for negligence that the drafters of Rule 8 obviously thought would satisfy Rule 8's standard. That complaint, in relevant part, alleges only that ''[o]n June 1, 1936, in a public highway called Boylston Street in Boston Massachusetts, defendant negligently drove a motor vehicle against plaintiff who was crossing the highway.''

The Federal Rules require the court to await the submission of the plaintiff's evidence—first at the summary-judgment stage and, if summary judgment is not granted, then at trial—before evaluating or passing on the truth of the complaint's allegations. It's only sensible that courts do so: Not until a plaintiff has had access to relevant information in the defendant's possession during the discovery process that follows the filing of a complaint as a matter of right can the plaintiff normally offer evidence to support the complaint's allegations.

For over 70 years following the adoption of the Federal Rules, the Supreme Court of the U.S. consistently and faithfully implemented Rule 8's notice-pleading language. Its leading decision on the subject, *Conley* v. *Gibson*, 355 U.S. 41, 1957, prohibited federal courts from dismissing a complaint ''for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief.''

Two years ago in *Bell Atlantic Corporation* v. *Twombly*, 550 U.S. 544, 2007, the Court jettisoned the standard set forth in Conley and announced that henceforth it would require not only factual specificity in complaints not previously required of plaintiffs, but also that a complaint's allegation of wrongdoing appear ''plausible'' to the court. This year in *Ashcroft* v. *Iqbal*, 129 S. Ct. 1937, 2009, the Supreme Court significantly expanded upon Twombly by, to quote Professor Stephen Burbank of the University of Pennsylvania Law School, effectively authorizing federal judges to indulge their ''subject judgments'' in evaluating an allegation's plausibility. According to an article that just appeared in The York Times, Justice Ruth Bader Ginsburg recently told a group of Federal judges that, as a result of these two cases, the Supreme Court has ''messed up the federal rules'' governing pleading.

When it passed the Rules Enabling Act, Congress established a carefully designed process for amending the Federal Rules of Civil Procedure. The process ends with the Supreme Court's presentation of a proposed rule change to Congress for approval. In Twombly and Ashcroft the Court effectively end ran that process.

The effect of the Court's actions will no doubt be to deny many plaintiffs with meritorious claims access to the Federal courts and, with it, any legal redress for their injuries. I think that is an especially unwelcome development at a time when, with the litigating resources of our executive-branch and administrative agencies stretched thin, the enforcement of Federal antitrust, consumer protection, civil rights and other laws that benefit the public will fall increasingly to private litigants.

The Notice Pleading Restoration Act will require the Federal courts to test the sufficiency of a complaint's allegations under the well-established standards that prevailed in the Federal courts until Twombly. I urge its passage.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 220—SUPPORTING THE DESIGNATION OF SEPTEMBER AND ''NATIONAL ATRIAL FIBRILLATION AWARENESS MONTH'' AND ENCOURAGING EFFORTS TO EDUCATE THE PUBLIC ABOUT ATRIAL FIBRILLATION

Mr. FEINGOLD (for himself, Ms. COLLINS, Mr. DORGAN, and Mr. CRAPO) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 220

Whereas atrial fibrillation is a cardiac condition in which electrical pulses disrupt the regular beating of the atria in the heart, hampering the ability of the atria to fill the ventricles with blood, and subsequently causing blood to pool in the atria and form clots;

Whereas atrial fibrillation is the most common cardiac malfunction and affects at least 2,200,000 people in the United States, with increased prevalence anticipated as the population of the United States ages;

Whereas atrial fibrillation is associated with an increased, long-term risk of stroke, heart failure, and mortality from all causes, especially among women;

Whereas atrial fibrillation accounts for approximately ⅓ of hospitalizations for cardiac rhythm disturbances;

Whereas, according to the American Heart Association, 3 to 5 percent of people in the United States aged 65 and older are estimated to have atrial fibrillation;

Whereas atrial fibrillation is recognized as a major contributor to strokes, with an estimated 15 to 20 percent of strokes occurring in people afflicted with atrial fibrillation;

Whereas it is estimated that treating atrial fibrillation costs approximately $3,600 per patient annually for a total cost burden in the United States of approximately $15,700,000,000;

Whereas obesity is a significant risk factor for atrial fibrillation;

Whereas better education for patients and health care providers is needed in order to ensure timely recognition of atrial fibrillation symptoms;

Whereas more research into effective treatments for atrial fibrillation is needed; and

Whereas September is an appropriate month to observe as National Atrial Fibrillation Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of September as ''National Atrial Fibrillation Awareness Month'';

(2) supports efforts to educate people about atrial fibrillation;

(3) recognizes the need for additional research into treatment for atrial fibrillation; and

(4) encourages the people of the United States and interested groups to observe and support National Atrial Fibrillation Awareness Month through appropriate programs and activities that promote public awareness of atrial fibrillation and potential treatments for atrial fibrillation.

SENATE RESOLUTION 221—EXPRESSING SUPPORT FOR THE GOALS AND IDEALS OF THE FIRST ANNUAL NATIONAL WILD HORSE AND BURRO ADOPTION DAY TAKING PLACE ON SEPTEMBER 26, 2009

Mr. REID (for himself, Mrs. FEINSTEIN, and Mr. ENSIGN) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 221

Whereas, in 1971, in Public Law 92–195 (commonly known as the ''Wild Free-Roaming Horses and Burros Act'') (16 U.S.C. 1331 et seq.), Congress declared that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West;

Whereas, under that Act, the Secretary of the Interior and the Secretary of Agriculture have responsibility for the humane capture, removal, and adoption of wild horses and burros;

Whereas the Bureau of Land Management and the Forest Service are the Federal agencies responsible for carrying out the provisions of the Act;

Whereas a number of private organizations will assist with the adoption of excess wild horses and burros, in conjunction with the first National Wild Horse and Burro Adoption Day; and

Whereas there are approximately 31,000 wild horses in short-term and long-term holding facilities, with 18,000 young horses awaiting adoption: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of a National Wild Horse and Burro Adoption Day to be held annually in coordination with the Secretary of Interior and the Secretary of Agriculture;

(2) recognizes that creating a successful adoption model for wild horses and burros is consistent with Public Law 92-195 (commonly known as the ''Wild Free-Roaming Horses and Burros Act'') (16 U.S.C. 1331 et seq.) and beneficial to the long-term interests of the people of the United States in protecting wild horses and burros; and

(3) encourages citizens of the United States to adopt a wild horse or burro so as to own a living symbol of the historic and pioneer spirit of the West.

SENATE CONCURRENT RESOLUTION 34—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO HONOR THE CREW OF THE USS MASON DE–529 WHO FOUGHT AND SERVED DURING WORLD WAR II

Mr. BURRIS submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. CON. RES. 34

Whereas the USS Mason DE–529 was the only United States Navy destroyer with a predominantly black enlisted crew during World War II;

Whereas the integration of the crew of the USS Mason DE–529 was the role model for racial integration on Navy vessels and served as a beacon for desegregation in the Navy;

Whereas the integration of the crew signified the first time that black citizens of the United States were trained to serve in ranks other than cooks and stewards;

Whereas the USS Mason DE–529 served as a convoy escort in the Atlantic and Mediterranean Theatres during World War II;

Whereas, in September 1944, the crew of the USS Mason DE–529 helped save Convoy NY119, ushering the convoy to safety despite a deadly storm in the Atlantic Ocean;

Whereas, in 1998, the Secretary of the Navy John H. Dalton made an official decision to name an Arleigh Burke Class Destroyer the USS Mason DDG–87 in order to honor the USS Mason DE–529;

Whereas, in 1994, President Clinton awarded the USS Mason DE–529 a long-overdue commendation, presenting the award to 67 of the surviving crewmembers; and

Whereas commemorative postage stamps have been issued to honor important vessels, aircrafts, and battles in the history of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States Postal Service should issue a postage stamp honoring the crew of the USS Mason DE–529 who fought and served during World War II; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1690. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1691. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1692. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1693. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1694. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1695. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1696. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1697. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1698. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1699. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1700. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1701. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1702. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1703. Ms. LANDRIEU (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1704. Mr. CARPER (for himself, Ms. COLLINS, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1705. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1706. Mr. DORGAN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1707. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1708. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1709. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1710. Mr. LEVIN (for himself, Mr. McCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1711. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1712. Mr. McCAIN (for himself, Mr. LIEBERMAN, Mr. GRAHAM, Mr. KAUFMAN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1713. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1714. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1715. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1716. Mr. LEAHY (for himself, Mr. BINGAMAN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1717. Mr. FRANKEN (for himself, Mr. ISAKSON, Ms. LANDRIEU, Mr. GRAHAM, Mr. BROWN, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1718. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1719. Mr. PRYOR (for himself and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1720. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1721. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1722. Mr. BAYH (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1723. Mr. UDALL, of Colorado submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1724. Mr. UDALL, of Colorado submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1725. Mr. SCHUMER (for himself, Mr. JOHANNS, Mr. WHITEHOUSE, Mr. DEMINT, Mr. COBURN, Mr. LUGAR, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1726. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1727. Mr. DEMINT (for himself and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1728. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1729. Mr. BAUCUS (for himself and Mr. TESTER) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1730. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1731. Mr. FEINGOLD (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1732. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1733. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1734. Mr. BURRIS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1735. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1736. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1737. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1738. Mr. CASEY (for himself and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1739. Mr. HATCH (for himself, Mr. WEBB, Mr. BENNETT, Mr. VOINOVICH, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1740. Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1741. Mr. RISCH (for himself, Mr. CRAPO, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1742. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1743. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1744. Mr. LIEBERMAN (for himself, Mr. SESSIONS, Mr. INHOFE, Mr. VITTER, Mr. MARTINEZ, Mr. KYL, Mr. BEGICH, Mr. MCCAIN, Mr. NELSON of Nebraska, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1745. Mr. LEAHY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1746. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1747. Mr. LEAHY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1748. Mr. LEAHY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1749. Mr. LEAHY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1750. Mr. LAUTENBERG (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1751. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1752. Mrs. BOXER (for herself and Mr. BOND) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1753. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1754. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1755. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1756. Mr. LAUTENBERG (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1757. Mr. KERRY (for himself, Mr. LEVIN, and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1758. Mr. REED (for himself and Mr. WICKER) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1759. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1760. Mr. KYL (for himself, Mr. MCCONNELL, Mr. MCCAIN, Mr. INHOFE, Mr. SESSIONS, Mr. GRAHAM, Mr. VITTER, Mr. DEMINT, Mr. RISCH, Mr. CORNYN, Mr. BARRASSO, Mr. LIEBERMAN, Mr. WICKER, and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill S. 1390, supra.

SA 1761. Mr. KERRY (for himself, Mr. LUGAR, Mr. LEVIN, and Mr. WEBB) proposed an amendment to the bill S. 1390, supra.

SA 1762. Mrs. MCCASKILL (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1763. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1764. Mr. SCHUMER (for himself, Mr. CHAMBLISS, Mr. NELSON of Nebraska, Mr. BENNETT, Mr. CORNYN, Mr. ISAKSON, Ms. CANTWELL, Mrs. SHAHEEN, Mr. BURRIS, Mr. VITTER, Mr. CASEY, Mr. PRYOR, Mr. BYRD, Mr. UDALL of New Mexico, Mrs. FEINSTEIN, Mr. DURBIN, Mrs. MURRAY, Mr. WARNER, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. CONRAD, Mr. BROWNBACK, Mr. SPECTER, Mr. WICKER, Mr. BURR, Mr. LIEBERMAN, Mr. ROBERTS, Mr. RISCH, Mrs. LINCOLN, Mr. THUNE, Mr. BOND, Mr. BAYH, Mr. NELSON of Florida, Mr. FRANKEN, Mr. ENSIGN, Mr. LEAHY, Mr. KENNEDY, Mr. WYDEN, Mr. CARDIN, Mr. BEGICH, Mrs. GILLIBRAND, Mr. INHOFE, Mr. COCHRAN, Mr. WEBB, Mr. ENZI, Mr. MERKLEY, Mr. CORKER, Mr. KERRY, Mr. GRASSLEY, Mr. GREGG, Mr. WHITEHOUSE, Mr. DEMINT, Mr. JOHANNS, Mr. COBURN, Mr. LUGAR, Ms. MURKOWSKI, Mr. TESTER, Mr. CRAPO, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1765. Mr. CHAMBLISS (for himself, Mr. LIEBERMAN, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1766. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1690. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VIII, add the following:

SEC. 838. ADVANCED WATER PURIFICATION SYSTEMS.

(a) FINDING.—Congress makes the following findings:

(1) Water is often the limiting factor in the length of a military mission.

(2) Military forces in the field require new technologies to help extend mission duration.

(3) Military forces must have the capability to generate safe drinking water during remote deployments, emergencies, or during the disruption of the supply chain.

(b) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the ongoing efforts by the Department of Defense, and specifically the United States Special Operations Command, to acquire advanced water purification systems. The report shall include the following:

(1) The impact of potable water availability on the planning and execution of military missions.

(2) A list of performance criteria used to evaluate the different water purification systems such as—

(A) purity, taste, and color of the water;

(B) the length of time the purification takes; and

(C) the ease of use of the system.

(3) An assessment of the current man-portable water purification technologies including technologies that use chemicals, forward osmosis, and filtration.

(4) An assessment of the performance of each system in multiple scenarios such as a bio-terror attacks, natural disasters like floods and hurricanes, and military operations overseas.

SA 1691. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 270, between lines 5 and 6, insert the following:

SEC. 838. REQUIREMENT TO BUY MILITARY DECORATIONS, RIBBONS, BADGES, MEDALS, INSIGNIA, AND OTHER UNIFORM ACCOUTERMENTS PRODUCED IN THE UNITED STATES.

(a) REQUIREMENT.—Subchapter III of chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2495c. Requirement to buy military decorations, ribbons, badges, medals, insignia, and other uniform accouterments produced in the United States

"(a) BUY AMERICAN REQUIREMENT.—A military exchange store or other non-appropriated fund instrumentality of the Department of Defense may not purchase for resale any military decorations, ribbons, badges, medals, insignia, or other uniform accouterments that are not produced in the United States. Competitive procedures shall be used in selecting the United States producer of the decorations.

"(b) HERALDIC QUALITY CONTROL.—No certificate of authority issued pursuant to part 507 of title 32, Code of Federal Regulations (or any successor regulation) for the manufacture and sale of any item described in subsection (a) by the Institute of Heraldry, the Navy Clothing and Textile Research Facility, or the Marine Corps Combat Equipment and Support Systems for quality control and specifications purposes shall be permitted unless these items are manufactured from domestic material manufactured in the United States.

"(c) EXCEPTION.—The Secretary of Defense may waive the applicability of subsections (a) and (b) on a case-by-case basis if the Secretary of Defense determines that there is not available for procurement at a reasonable cost a satisfactory quality and sufficient quantity of an item described under subsection (a) produced in the United States.

"(d) UNITED STATES DEFINED.—In this section, the term 'United States' includes the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2495b the following new item:

"2495c. Requirement to buy military decorations, ribbons, badges, medals, insignia, and other uniform accouterments produced in the United States.".

(c) CONFORMING AMENDMENTS.—Section 2533a(b)(1) of such title is amended—

(1) in subparagraph (D), by striking "; or" and inserting a semicolon;

(2) in subparagraph (E), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(F) military decorations, ribbons, badges, medals, insignia, and other uniform accouterments.''.

SA 1692. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title X, add the following:

SEC. 1083. ESTABLISHMENT OF NATIONAL DEFENSE PANEL.

Section 118(f) of title 10, United States Code, is amended to read as follows:

''(f) NATIONAL DEFENSE PANEL.—(1) There is established a National Defense Panel to conduct an assessment of the quadrennial defense review.

''(2) The National Defense Panel shall be composed of 12 members who are recognized experts in matters relating to the national security of the United States. The members shall be appointed as follows:

''(A) Three by both the chairman and ranking members of the Committee on Armed Services of the Senate.

''(B) Three by both the chairman and ranking members of the Committee on Armed Services of the House of Representatives.

''(3) Not later than three months after the date on which the report on a quadrennial defense review is submitted under subsection (d) to the congressional committees named in that subsection, the National Defense Panel shall submit to those committees an assessment of the review, including the recommendations of the review, the stated and implied assumptions incorporated in the review, and the vulnerabilities of the strategy and force structure underlying the review. The assessment of the National Defense Panel shall include analyses of the trends, asymmetries, and concepts of operations that characterize the military balance with potential adversaries, focusing on the strategic approaches of possible opposing forces.

''(4) The National Defense Panel shall have the authorities provided in section 3161 of title 5, United States Code, and shall be subject to the conditions set forth in such section.

''(5) Funds for activities of the National Defense Panel shall be provided from unobligated amounts available to the Department of Defense.''.

SA 1693. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 429, between lines 8 and 9, insert the following:

SEC. 1073. REPORT ON AUTOMATED SMALL ARMS AMMUNITION SORTING.

(a) FINDINGS.—Congress makes the following findings:

(1) From 2001 to 2009, small arms ammunition acquisition by the Federal Government increased to over 2,000,000,000 rounds, with 80 percent of that ammunition being used for training or noncombat purposes.

(2) An automatic ammunition sorting and inspecting capability currently only exists at Camp Arifjan, Kuwait, and Fort Irwin, California.

(3) After 8 years of combat and precombat training since October 2001, large stockpiles of loose small arms ammunition awaiting sorting have collected.

(4) It is in the best financial and logistical interest to expedite and increase the recapitalization of unused small arms ammunition within the Department of Defense.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on small arms ammunition.

(2) CONTENT.—The report required under paragraph (1) shall include the following:

(A) The plan of the Department of Defense to recoup and recapitalize large quantities of loose small arms ammunition (9mm, .45 caliber, 5.56mm, 7.62mm, and .50 caliber).

(B) An assessment of the cost savings of an increased industrial capacity to automatically sort and inspect large quantities of loose and unused small arms ammunition in lieu of manual inspection and sorting methods.

(C) The intent of the Department of Defense to invest in automatic ammunition sorting infrastructure that reduces the number of personnel required to manually sort ammunition and expedites ammunition usage by members of the Armed Forces for combat and training.

(D) The impact of military installations and departments having the ability to automatically and mechanically sort spent brass from live ammunition and visually inspect and identify ammunition for quality control and authenticity.

SA 1694. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:—

At the end of subtitle D of title II, add the following:

SEC. 252. EVALUATION OF EXTENDED RANGE MODULAR SNIPER RIFLE SYSTEM.

(a) IN GENERAL.—The Secretary of the Army, acting through the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, shall conduct a comparative evaluation of an extended range modular sniper rifle system.

(b) ELEMENTS.—The evaluation required by subsection (a) shall—

(1) use a .338 Lapua Magnum caliber weapon platform and associated optics, ammunition, and visual augmentation systems to compare the extended range modular sniper rifle system to existing Army sniper platforms, including such platforms based on the .300 Winchester Magnum caliber weapon;

(2) include developmental testing and in-theater operational testing of no fewer than 50 complete extended range modular sniper rifle systems using a .338 Lapua Magnum caliber weapon platform, inclusive of ammunition and training; and

(3) identify and demonstrate an integrated suite of technologies capable of extending the effective range of Army snipers against—

(A) non-technical enemy vehicles and personnel wearing Level III body armor to 750 meters; and

(B) enemy positions and personnel to ranges of 1,500 meters.

(c) FUNDING.—The Secretary of the Army shall conduct the evaluation required by subsection (a) using, to the extent practicable, amounts appropriated for fiscal year 2009 for an extended range modular sniper rifle system that are unobligated.

(d) REPORT.—Not later than January 1, 2010, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the evaluation required by subsection (a), including detailed ballistics and system performance data and an assessment of operational applications and benefits of an extended range modular sniper rifle system.

SA 1695. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 429, between lines 8 and 9, insert the following:

SEC. 1073. REPORT ON INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Building foreign partner capacity is a fundamental cornerstone of the security strategy of the United States.

(2) Significant progress has been made in this area over the past several years, but the United States Government must continue to increase its efforts, including improving reliability of funding and late notifications of school availability for the International Military Education and Training (IMET) program.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report on the effectiveness and efficiency of the IMET program.

(2) CONTENT.—The report required under paragraph (1) shall include the following information broken out by year over the past 10 years:

(A) Number of courses in the IMET program available, accomplished, and cancelled and an explanation therefor.

(B) Number of students authorized and actual attendance for each course and an explanation for the difference.

(C) The total budget and actual budget executed for each course in the IMET program and an explanation for the difference.

(D) The process for selecting students for the IMET program, including a timeline.

(E) The process for distributing funding for each school, including a timeline.

(F) Lessons learned to ensure student attendance and course execution is maximized.

SA 1696. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPLIANCE WITH WORLD TRADE ORGANIZATION PROVISIONS.

Section 907 of the Federal Food, Drug, and Cosmetic Act (as added by section 101(b)(3) of the Family Smoking Prevention and Tobacco Control Act (Public law 111–31)) is amended by adding at the end the following:

''(g) COMPLIANCE WITH TRADE AGREEMENTS.—If the United States Trade Representative notifies the Secretary that the prohibition contained in subsection (a)(1)(A) with respect to any artificial or natural flavor or any herb or spice may result in a violation of a trade agreement, the Secretary shall provide the Trade Representative with evidence in support of the conclusion that the prohibition is appropriately designed to protect public health. The Secretary may by regulation provide an exception or revision from such prohibition if necessary to ensure compliance with the trade agreement.''.

SA 1697. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 479, between lines 18 and 19, insert the following:

SEC. 1222. REPORT ON MILITARY POWER OF IRAN.

(a) BIENNIAL REPORT.—Not later than March 31, 2010, and in each even-numbered year thereafter until 2020, the Secretary of Defense shall submit to Congress a report, in both classified and unclassified form, on the current and future military strategy of the Islamic Republic of Iran. The report shall address the current and probable future course of military developments on the Army, Air Force, Navy, and Revolutionary Guard Corps of the Islamic Republic of Iran.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following elements:

(1) As assessment of the grand strategy, security strategy, and military strategy of the Government of the Islamic Republic of Iran, including the following:

(A) The goals of the grand strategy, security strategy, and military strategy.

(B) Aspects of the strategies that would be designed to establish Iran as the leading power in the Middle East and to enhance the influence of Iran in other regions of the world.

(C) The security situation in the Persian Gulf and the Levant.

(D) Iranian strategy regarding other countries in the Middle East region.

(2) An assessment of the capabilities of the conventional forces of the Government of the Islamic Republic of Iran, including the following:

(A) The size, location, and capabilities of the conventional forces.

(B) A detailed analysis of the conventional forces of the Government of the Islamic Republic of Iran facing United States forces in the region and other countries in the Middle East region.

(C) An estimate of the funding provided for each branch of the conventional forces of the Government of the Islamic Republic of Iran.

(3) An assessment of the unconventional forces of the Government of the Islamic Republic of Iran, including the following:

(A) The size and capability of special operations units, including the Iranian Revolutionary Guard Corps-Quds Force.

(B) The types and amount of support provided to groups designated by the United States as terrorist organizations in particular those forces that have been assessed as willing to carry out terrorist operations on behalf of the Islamic Republic of Iran.

(C) A detailed analysis of the unconventional forces of the Government of the Islamic Republic of Iran and their implications for the United States and other countries in the Middle East region.

(D) An estimate of the amount of funds spent by the Government of the Islamic Republic of Iran to develop and support special operations forces and terrorist groups.

(c) DEFINITIONS.—In this section:

(1) CONVENTIONAL FORCES OF THE GOVERNMENT OF IRAN.—The term ''conventional forces of the Government of the Islamic Republic of Iran''—

(A) means military forces of the Islamic Republic of Iran designed to conduct operations on sea, air, or land, other than Iran's unconventional forces and Iran's strategic missile forces; and

(B) includes Iran's Army, Iran's Air Force, Iran's Navy, and elements of the Iranian Revolutionary Guard Corps, other than the Iranian Revolutionary Guard Corps-Quds Force.

(2) MIDDLE EAST REGION.—The term ''Middle East region'' means—

(A) the countries within the area of responsibility of United States Central Command; and

(B) the countries within the area covered by the Bureau of Near Eastern Affairs of the Department of State.

(3) UNCONVENTIONAL FORCES OF THE GOVERNMENT OF IRAN.—The term ''unconventional forces of the Government of the Islamic Republic of Iran''—

(A) means forces of the Islamic Republic of Iran that carry out missions typically associated with special operations forces; and

(B) includes—

(i) the Iranian Revolutionary Guard Corps-Quds Force; and

(ii) any organization that—

(I) has been designated a terrorist organization by the United States;

(II) receives assistance from the Government of Iran; and

(III)(aa) is assessed as being willing in some or all cases of carrying out attacks on behalf of the Government of the Islamic Republic of Iran; or

(bb) is assessed as likely to carry out attacks in response to a military attack by another country on the Islamic Republic of Iran.

SA 1698. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, after line 14, insert the following:

SEC. 1083. DESIGNATION OF NATIONAL CENTER FOR HUMAN PERFORMANCE.

(a) IN GENERAL.—The National Center for Human Performance at the Texas Medical Center is hereby designated as a national center for research and education in medicine and related sciences to enhance human performance which could include matters of relevance to the Armed Forces.

(b) CONSTRUCTION.—Nothing in this section shall be construed to convey on such Center status as a center of excellence under the Public Health Service Act or as a center of the National Institutes of Health under title IV of such Act.

SA 1699. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, after line 14, insert the following:

SEC. 1083. DESIGNATION OF NATIONAL CENTER FOR HUMAN PERFORMANCE.

(a) IN GENERAL.—The National Center for Human Performance at the Texas Medical Center is hereby designated as a national center for research and education in medicine and related sciences to enhance human performance which could include matters of relevance to the Armed Forces.

(b) CONSTRUCTION.—Nothing in this section shall be construed to convey on such Center status as a center of excellence under the Public Health Service Act or as a center of the National Institutes of Health under title IV of such Act.

SA 1700. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title XII, add the following:

SEC. 1211. ENSURING IRAQI SECURITY THROUGH DEFENSE COOPERATION BETWEEN THE UNITED STATES AND IRAQ.

The President may treat an undertaking by the Government of Iraq that is made between the date of the enactment of this Act and December 31, 2011, as a dependable undertaking described in section 22(a) of the Arms Export Control Act (22 U.S.C. 2762(a)) for purposes of entering into contracts for the procurement of defense articles and defense services as provided for in that section.

SA 1701. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title X add the following:

SEC. 1083. SENSE OF THE SENATE ON MEDICARE AND MEDICAID SAVINGS AND MEDICAID EXPANSION.

(a) FINDINGS.—The Senate finds that—

(1) the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) is projected to be insolvent by 2017; and

(2) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is currently the largest source of general revenue spending on health care for both the Federal government and the States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) any savings under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) should be invested back into the Medicare program, rather than creating new entitlement programs; and

(2) the Federal Government should not expand the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in a manner that imposes an unfunded mandate on States when State budgets are already heavily burdened by federally imposed requirements that force those budgets into the red.

SA 1702. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VII, add the following:

SEC. 733. REPORT ON USE OF ALTERNATIVE THERAPIES IN TREATMENT OF POST-TRAUMATIC STRESS DISORDER.

(a) IN GENERAL.—Not later than December 31, 2010, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on research related to post-traumatic stress disorder.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) The status of all studies and clinical trials that involve treatments of post-traumatic stress disorder conducted by the Department of Defense and the Department of Veterans Affairs.

(2) The effectiveness of alternative therapies in the treatment of post-traumatic stress disorder, including the therapeutic use of animals.

(3) Identification of areas in which the Department of Defense and the Department of Veterans Affairs may be duplicating studies, programs, or research with respect to post-traumatic stress disorder.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Veterans' Affairs of the Senate; and

(2) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Veterans' Affairs of the House of Representatives.

SA 1703. Ms. LANDRIEU (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

DIVISION ____—SBIR/STTR REAUTHORIZATION

SEC. __001. SHORT TITLE.

This division may be cited as the ''SBIR/STTR Reauthorization Act of 2009''.

SEC. __002. DEFINITIONS.

In this division—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms ''extramural budget'', ''Federal agency'', ''Small Business Innovation Research Program'', ''SBIR'', ''Small Business Technology Transfer Program'', and ''STTR'' have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term ''small business concern'' has the same meaning as under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE ____—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. __101. EXTENSION OF TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking ''2008'' and inserting ''2017''.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking ''2009'' and inserting ''2017''.

SEC. __102. STATUS OF THE OFFICE OF TECHNOLOGY.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and'';

(3) by redesignating paragraph (8) as paragraph (9); and

(4) by adding at the end the following:

''(10) to maintain an Office of Technology to carry out the responsibilities of the Administration under this section, which shall be—

''(A) headed by the Assistant Administrator for Technology, who shall report directly to the Administrator; and

''(B) independent from the Office of Government Contracting of the Administration and sufficiently staffed and funded to comply with the oversight, reporting, and public database responsibilities assigned to the Office of Technology by the Administrator.''.

SEC. __103. SBIR ALLOCATION INCREASE.

Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''Each'' and inserting ''Except as provided in paragraph (2)(C), each'';

(B) in subparagraph (B), by striking ''and'' at the end; and

(C) by striking subparagraph (C) and inserting the following:

''(C) not less than 2.5 percent of such budget in each of fiscal years 2009 and 2010;

''(D) not less than 2.6 percent of such budget in fiscal year 2011;

''(E) not less than 2.7 percent of such budget in fiscal year 2012;

''(F) not less than 2.8 percent of such budget in fiscal year 2013;

''(G) not less than 2.9 percent of such budget in fiscal year 2014;

''(H) not less than 3.0 percent of such budget in fiscal year 2015;

''(I) not less than 3.1 percent of such budget in fiscal year 2016;

''(J) not less than 3.2 percent of such budget in fiscal year 2017;

''(K) not less than 3.3 percent of such budget in fiscal year 2018;

''(L) not less than 3.4 percent of such budget in fiscal year 2019; and

''(M) not less than 3.5 percent of such budget in fiscal year 2020 and each fiscal year thereafter,''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(B) by striking ''A Federal agency'' and inserting the following:

''(A) IN GENERAL.—A Federal agency''; and

(C) by adding at the end the following:

''(B) DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.—For the Department of Defense and the Department of Energy, to the greatest extent practicable, the percentage of the extramural budget in excess of 2.5 percent required to be expended with small business concerns under subparagraphs (D) through (M) of paragraph (1)—

''(i) may not be used for new Phase I or Phase II awards; and

''(ii) shall be used for activities that further the readiness levels of technologies developed under Phase II awards, including conducting testing and evaluation to promote the transition of such technologies into commercial or defense products, or systems furthering the mission needs of the Department of Defense or the Department of Energy, as the case may be.''.

SEC. __104. STTR ALLOCATION INCREASE.

Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking ''thereafter.'' and inserting ''through fiscal year 2010;''; and

(3) by adding at the end the following:

''(iii) 0.4 percent for fiscal years 2011 and 2012;

''(iv) 0.5 percent for fiscal years 2013 and 2014; and

''(v) 0.6 percent for fiscal year 2015 and each fiscal year thereafter.''.

SEC. __105. SBIR AND STTR AWARD LEVELS.

(a) SBIR ADJUSTMENTS.—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

(1) by striking ''$100,000'' and inserting ''$150,000''; and

(2) by striking ''$750,000'' and inserting ''$1,000,000''.

(b) STTR ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking ''$100,000'' and inserting ''$150,000''; and

(2) by striking ''$750,000'' and inserting ''$1,000,000''.

(c) TRIENNIAL ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D)—

(A) by striking ''5 years'' and inserting ''3 years''; and

(B) by striking ''and programmatic considerations''; and

(2) in subsection (p)(2)(B)(ix) by striking ''greater or lesser amounts to be awarded at the discretion of the awarding agency,'' and inserting ''an adjustment for inflation of such amounts once every 3 years,''.

(d) LIMITATION ON CERTAIN AWARDS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(aa) LIMITATION ON CERTAIN AWARDS.—

''(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

''(2) MAINTAINANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

''(A) the amount of each award;

''(B) a justification for exceeding the award amount;

''(C) the identity and location of each award recipient; and

''(D) whether a recipient has received any venture capital investment and, if so, whether the recipient is majority-owned and controlled by multiple venture capital companies.

''(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.''.

SEC. __106. AGENCY AND PROGRAM COLLABORATION.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this division, is amended by adding at the end the following:

''(bb) SUBSEQUENT PHASES.—

''(1) AGENCY COLLABORATION.—A small business concern that received an award from a Federal agency under this section shall be eligible to receive an award for a subsequent phase from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

''(2) SBIR AND STTR COLLABORATION.—A small business concern which received an award under this section under the SBIR program or the STTR program may receive an award under this section for a subsequent phase in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).''.

SEC. __107. ELIMINATION OF PHASE II INVITATIONS.

(a) IN GENERAL.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(B), by striking ''to further'' and inserting: ''which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further''; and

(2) in paragraph (6)(B), by striking ''to further develop proposed ideas to'' and inserting ''which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further develop proposals that''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 638) is amended—

(1) in section 9—

(A) in subsection (e)—

(i) in paragraph (8), by striking ''and'' at the end;

(ii) in paragraph (9)—

(I) by striking ''the second or the third phase'' and inserting ''Phase II or Phase III''; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(10) the term 'Phase I' means—

''(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

''(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

''(11) the term 'Phase II' means—

''(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

''(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

''(12) the term 'Phase III' means—

''(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

''(B) with respect to the STTR program, the third phase described in paragraph (6)(C).'';

(B) in subsection (j)—

(i) in paragraph (1)(B), by striking ''phase two'' and inserting ''Phase II'';

(ii) in paragraph (2)—

(I) in subparagraph (B)—

(aa) by striking ''the third phase'' each place it appears and inserting ''Phase III''; and

(bb) by striking ''the second phase'' and inserting ''Phase II'';

(II) in subparagraph (D)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II'';

(III) in subparagraph (F), by striking ''the third phase'' and inserting ''Phase III'';

(IV) in subparagraph (G)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II''; and

(V) in subparagraph (H)—

(aa) by striking ''the first phase'' and inserting ''Phase I'';

(bb) by striking ''second phase'' each place it appears and inserting ''Phase II''; and

(cc) by striking ''third phase'' and inserting ''Phase III''; and

(iii) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by striking ''the first phase (as described in subsection (e)(4)(A))'' and inserting ''Phase I'';

(bb) by striking ''the second phase (as described in subsection (e)(4)(B))'' and inserting ''Phase II''; and

(cc) by striking ''the third phase (as described in subsection (e)(4)(C))'' and inserting ''Phase III''; and

(II) in subparagraph (B), by striking ''second phase'' and inserting ''Phase II'';

(C) in subsection (k)—

(i) by striking ''first phase'' each place it appears and inserting ''Phase I''; and

(ii) by striking ''second phase'' each place it appears and inserting ''Phase II'';

(D) in subsection (l)(2)—

(i) by striking ''the first phase'' and inserting ''Phase I''; and

(ii) by striking ''the second phase'' and inserting ''Phase II'';

(E) in subsection (o)(13)—

(i) in subparagraph (B), by striking ''second phase'' and inserting ''Phase II''; and

(ii) in subparagraph (C), by striking ''third phase'' and inserting ''Phase III'';

(F) in subsection (p)—

(i) in paragraph (2)(B)—

(I) in clause (vi)—

(aa) by striking ''the second phase'' and inserting ''Phase II''; and

(bb) by striking ''the third phase'' and inserting ''Phase III''; and

(II) in clause (ix)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II''; and

(ii) in paragraph (3)—

(I) by striking ''the first phase (as described in subsection (e)(6)(A))'' and inserting ''Phase I'';

(II) by striking ''the second phase (as described in subsection (e)(6)(B))'' and inserting ''Phase II''; and

(III) by striking ''the third phase (as described in subsection (e)(6)(A))'' and inserting ''Phase III'';

(G) in subsection (q)(3)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking ''FIRST PHASE'' and inserting ''PHASE I''; and

(II) by striking ''first phase'' and inserting ''Phase I''; and

(ii) in subparagraph (B)—

(I) in the subparagraph heading, by striking ''SECOND PHASE'' and inserting ''PHASE II''; and

(II) by striking ''second phase'' and inserting ''Phase II'';

(H) in subsection (r)—

(i) in the subsection heading, by striking ''THIRD PHASE'' and inserting ''PHASE III'';

(ii) in paragraph (1)—

(I) in the first sentence—

(aa) by striking ''for the second phase'' and inserting ''for Phase II'';

(bb) by striking ''third phase'' and inserting ''Phase III''; and

(cc) by striking ''second phase period'' and inserting ''Phase II period''; and

(II) in the second sentence—

(aa) by striking ''second phase'' and inserting ''Phase II''; and

(bb) by striking ''third phase'' and inserting ''Phase III''; and

(iii) in paragraph (2), by striking ''third phase'' and inserting ''Phase III''; and

(I) in subsection (u)(2)(B), by striking ''the first phase'' and inserting ''Phase I'';

(2) in section 34—

(A) in subsection (c)(2)(B)(ii), by striking ''first phase and second phase SBIR awards'' and inserting ''Phase I and Phase II SBIR awards (as defined in section 9(e))''; and

(B) in subsection (e)(2)(A)—

(i) in clause (i), by striking ''first phase awards'' and all that follows and inserting ''Phase I awards (as defined in section 9(e));''; and

(ii) by striking ''first phase'' each place it appears and inserting ''Phase I''; and

(3) in section 35(c)(2)(B)(vii), by striking ''third phase'' and inserting ''Phase III''.

SEC. __108. MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this division, is amended by adding at the end the following:

''(cc) MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.—

''(1) AUTHORITY AND DETERMINATION.—

''(A) IN GENERAL.—Upon a written determination provided not later than 30 days in advance to the Administrator and to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives—

''(i) the Director of the National Institutes of Health may award not more than 18 percent of the SBIR funds of the National Institutes of Health allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are owned in majority part by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns; and

''(ii) the head of any other Federal agency participating in the SBIR program may

award not more than 8 percent of the SBIR funds of the Federal agency allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are majority owned by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns.

''(B) DETERMINATION.—A written determination made under subparagraph (A) shall explain how the use of the authority under that subparagraph will induce additional venture capital funding of small business innovations, substantially contribute to the mission of the funding Federal agency, demonstrate a need for public research, and otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

''(2) QUALIFICATION REQUIREMENTS.—The Administrator shall establish requirements relating to the affiliation by small business concerns with venture capital companies, which may not exclude a United States small business concern from participation in the program under paragraph (1) on the basis that the small business concern is owned in majority part by, or controlled by, more than 1 United States venture capital company, so long as no single venture capital company owns more than 49 percent of the small business concern.

''(3) REGISTRATION.—A small business concern that is majority owned and controlled by multiple venture capital companies and qualified for participation in the program authorized under paragraph (1) shall—

''(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

''(B) indicate whether the small business concern is registered under subparagraph (A) in any SBIR proposal.

''(4) COMPLIANCE.—A Federal agency described in paragraph (1) shall collect data regarding the number and dollar amounts of phase I, phase II, and all other categories of awards under the SBIR program, and the Administrator shall report on the data and the compliance of each such Federal agency with the maximum amounts under paragraph (1) as part of the annual report by the Administration under subsection (b)(7).

''(5) ENFORCEMENT.—If a Federal agency awards more than the amount authorized under paragraph (1) for a purpose described in paragraph (1), the amount awarded in excess of the amount authorized under paragraph (1) shall be transferred to the funds for general SBIR programs from the non-SBIR research and development funds of the Federal agency within 60 days of the date on which the Federal agency awarded more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(t) VENTURE CAPITAL COMPANY.—In this Act, the term 'venture capital company' means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).''.

(c) ASSISTANCE FOR DETERMINING AFFILIATES.—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the website of the Administration (with a direct link displayed on the homepage of the website of the Administration or the SBIR website of the Administration)—

(1) a clear explanation of the SBIR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(2) contact information for officers or employees of the Administration who—

(A) upon request, shall review an issue relating to the rules described in paragraph (1); and

(B) shall respond to a request under subparagraph (A) not later than 20 business days after the date on which the request is received.

SEC. __109. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended by adding at the end the following:

''(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.''.

SEC. __110. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this division, is amended by adding at the end the following:

''(dd) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

''(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

''(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

''(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

''(2) PROHIBITION.—No Federal agency shall—

''(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

''(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

''(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

''(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

''(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

''(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.''.

SEC. __111. NOTICE REQUIREMENT.

The head of any Federal agency involved in a case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program or the STTR program shall provide timely notice, as determined by the Administrator, of the case or controversy to the Administrator.

TITLE ____—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. __201. RURAL AND STATE OUTREACH.

(a) OUTREACH.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

''(s) OUTREACH.—

''(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State—

''(A) for which the total value of contracts awarded to the State under this section during the most recent fiscal year for which data is available was less than $5,000,000; and

''(B) that certifies to the Administrator that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

''(2) PROGRAM AUTHORITY.—Of amounts made available to carry out this section for each of fiscal years 2010 through 2014, the Administrator may expend with eligible States not more than $5,000,000 in each such fiscal year in order to increase the participation of small business concerns located in those States in the programs under this section.

''(3) AMOUNT OF ASSISTANCE.—The amount of assistance provided to an eligible State under this subsection in any fiscal year—

''(A) shall be equal to not more than 50 percent of the total amount of matching funds from non-Federal sources provided by the State; and

''(B) shall not exceed $100,000.

''(4) USE OF ASSISTANCE.—Assistance provided to an eligible State under this subsection shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of small business concerns located in the State in the programs under this section, including—

''(A) the establishment of quantifiable performance goals, including goals relating to—

''(i) the number of program awards under this section made to small business concerns in the State; and

''(ii) the total amount of Federal research and development contracts awarded to small business concerns in the State;

''(B) the provision of competition outreach support to small business concerns in the State that are involved in research and development; and

''(C) the development and dissemination of educational and promotional information relating to the programs under this section to small business concerns in the State.''.

(b) FEDERAL AND STATE PROGRAM EXTENSION.—Section 34 of the Small Business Act (15 U.S.C. 657d) is amended—

(1) in subsection (h), by striking ''2001 through 2005'' each place it appears and inserting ''2010 through 2014''; and

(2) in subsection (i), by striking ''2005'' and inserting ''2014''.

(c) MATCHING REQUIREMENTS.—Section 34(e)(2) of the Small Business Act (15 U.S.C. 657d(e)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''50 cents'' and inserting ''35 cents''; and

(B) in clause (iii), by striking ''75 cents'' and inserting ''50 cents'';

(2) in subparagraph (B), by striking ''50 cents'' and inserting ''35 cents'';

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(4) by inserting after subparagraph (B) the following:

''(C) RURAL AREAS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in a rural area.

''(ii) ENHANCED RURAL AWARDS.—For a recipient located in a rural area that is located in a State described in subparagraph (A)(i), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 15 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in the rural area.

''(iii) DEFINITION OF RURAL AREA.—In this subparagraph, the term 'rural area' has the meaning given that term in section 1393(a)(2)) of the Internal Revenue Code of 1986.''.

SEC. __202. SBIR–STEM WORKFORCE DEVELOPMENT GRANT PILOT PROGRAM.

(a) PILOT PROGRAM ESTABLISHED.—From amounts made available to carry out this section, the Administrator shall establish a SBIR–STEM Workforce Development Grant Pilot Program to encourage the business community to provide workforce development opportunities for college students, in the fields of science, technology, engineering, and math (in this section referred to as ''STEM college students''), by providing a SBIR bonus grant.

(b) ELIGIBLE ENTITIES DEFINED.—In this section the term ''eligible entity'' means a grantee receiving a grant under the SBIR Program on the date of the bonus grant under subsection (a) that provides an internship program for STEM college students.

(c) AWARDS.—An eligible entity shall receive a bonus grant equal to 10 percent of either a Phase I or Phase II grant, as applicable, with a total award maximum of not more than $10,000 per year.

(d) EVALUATION.—Following the fourth year of funding under this section, the Administrator shall submit a report to Congress on the results of the SBIR–STEM Workforce Development Grant Pilot Program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000 for fiscal year 2011;

(2) $1,000,000 for fiscal year 2012;

(3) $1,000,000 for fiscal year 2013;

(4) $1,000,000 for fiscal year 2014; and

(5) $1,000,000 for fiscal year 2015.

SEC. __203. TECHNICAL ASSISTANCE FOR AWARDEES.

Section 9(q)(3) of the Small Business Act (15 U.S.C. 638(q)(3)) is amended—

(1) in subparagraph (A), by striking ''$4,000'' and inserting ''$5,000'';

(2) in subparagraph (B)—

(A) by striking '', with funds available from their SBIR awards,''; and

(B) by striking ''$4,000 per year'' and inserting ''$5,000 per year, which shall be in addition to the amount of the recipient's award''; and

(3) by adding at the end the following:

''(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

''(D) LIMITATION.—A Federal agency may not—

''(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

''(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.''.

SEC. __204. COMMERCIALIZATION PROGRAM AT DEPARTMENT OF DEFENSE.

Section 9(y) of the Small Business Act (15 U.S.C. 638(y)), as amended by section 834 of this Act, is amended—

(1) in paragraph (1), by adding at the end the following: ''The authority to create and administer a Commercialization Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).'';

(2) by redesignating paragraph (5) as paragraph (7); and

(3) by inserting after paragraph (4) the following:

''(5) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

''(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

''(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

''(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

''(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

''(B) use incentives in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2009, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

''(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Program and efforts to transition these technologies into programs of record or fielded systems.''.

SEC. __205. COMMERCIALIZATION PILOT PROGRAM FOR CIVILIAN AGENCIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this division, is amended by adding at the end the following:

''(ee) PILOT PROGRAM.—

''(1) AUTHORIZATION.—The head of each covered Federal agency may set aside not more than 10 percent of the SBIR and STTR funds of such agency for further technology development, testing, and evaluation of SBIR and STTR Phase II technologies.

''(2) APPLICATION BY FEDERAL AGENCY.—

''(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless such agency makes a written application to the Administrator, not later than 90 days before to the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

''(B) DETERMINATION.—The Administrator shall—

''(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

''(ii) publish the determination in the Federal Register; and

''(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(3) MAXIMUM AMOUNT OF AWARD.—The head of a Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

''(4) MATCHING.—The head of a Federal agency may not make an award under a pilot program for SBIR or STTR Phase II technology that will be acquired by the Federal Government unless new private, Federal non-SBIR, or Federal non-STTR funding that at least matches the award from the Federal agency is provided for the SBIR or STTR Phase II technology.

''(5) ELIGIBILITY FOR AWARD.—The head of a Federal agency may make an award under a pilot program to any applicant that is eligible to receive a Phase III award related to technology developed in Phase II of an SBIR or STTR project.

''(6) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

''(7) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

''(8) DEFINITIONS.—In this section—

''(A) the term 'covered Federal agency'—

''(i) means a Federal agency participating in the SBIR program or the STTR program; and

''(ii) does not include the Department of Defense; and

''(B) the term 'pilot program' means the program established under paragraph (1).''.

SEC. __206. NANOTECHNOLOGY INITIATIVE.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this division, is amended by adding at the end the following:

''(ff) NANOTECHNOLOGY INITIATIVE.—Each Federal agency participating in the SBIR or STTR program shall encourage the submission of applications for support of nanotechnology related projects to such program.''.

(b) SUNSET.—Effective October 1, 2014, subsection (ff) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. __207. ACCELERATING CURES.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 44 as section 45; and

(2) by inserting after section 43 the following:

''SEC. 44. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

''(a) NIH CURES PILOT.—

''(1) ESTABLISHMENT.—An independent advisory board shall be established at the National Academy of Sciences (in this section referred to as the 'advisory board') to conduct periodic evaluations of the SBIR program (as that term is defined in section 9) of

each of the National Institutes of Health (referred to in this section as the 'NIH') institutes and centers for the purpose of improving the management of the SBIR program through data-driven assessment.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The advisory board shall consist of—

''(i) the Director of the NIH;

''(ii) the Director of the SBIR program of the NIH;

''(iii) senior NIH agency managers, selected by the Director of NIH;

''(iv) industry experts, selected by the Council of the National Academy of Sciences in consultation with the Associate Administrator for Technology of the Administration and the Director of the Office of Science and Technology Policy; and

''(v) owners or operators of small business concerns that have received an award under the SBIR program of the NIH, selected by the Associate Administrator for Technology of the Administration.

''(B) NUMBER OF MEMBERS.—The total number of members selected under clauses (iii), (iv), and (v) of subparagraph (A) shall not exceed 10.

''(C) EQUAL REPRESENTATION.—The total number of members of the advisory board selected under clauses (i), (ii), (iii), and (iv) of subparagraph (A) shall be equal to the number of members of the advisory board selected under subparagraph (A)(v).

''(b) ADDRESSING DATA GAPS.—In order to enhance the evidence-base guiding SBIR program decisions and changes, the Director of the SBIR program of the NIH shall address the gaps and deficiencies in the data collection concerns identified in the 2007 report of the National Academies of Science entitled 'An Assessment of the Small Business Innovation Research Program at the NIH'.

''(c) PILOT PROGRAM.—

''(1) IN GENERAL.—The Director of the SBIR program of the NIH may initiate a pilot program, under a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the development of cures and therapies.

''(2) CONSIDERATIONS.—The Director of the SBIR program of the NIH may consider conducting a pilot program to include individuals with successful SBIR program experience in study sections, hiring individuals with small business development experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

''(d) REPORT TO CONGRESS.—The Director of the NIH shall submit an annual report to Congress and the advisory board on the activities of the SBIR program of the NIH under this section.

''(e) SBIR GRANTS AND CONTRACTS.—

''(1) IN GENERAL.—In awarding grants and contracts under the SBIR program of the NIH each SBIR program manager shall place an emphasis on applications that identify products and services that may enhance the development of cures and therapies.

''(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The advisory board shall evaluate the implementation of the requirement under paragraph (1) by examining increased commercialization and other metrics, to be determined and collected by the SBIR program of the NIH.

''(3) PHASE I AND II.—To the greatest extent practicable, the Director of the SBIR program of the NIH shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR program of the NIH to 6 months.

''(f) LIMIT.—Not more than a total of 1 percent of the extramural budget (as defined in section 9 of the Small Business Act (15 U.S.C. 638)) of the NIH for research or research and development may be used for the pilot program under subsection (c) and to carry out subsection (e).

''(g) SUNSET.—This section shall cease to be effective on the date that is 5 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009.''.

TITLE _____—OVERSIGHT AND EVALUATION

SEC. __301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)), as amended by section __102 of this division, is amended—

(1) in paragraph (7)—

(A) by striking ''STTR programs, including the data'' and inserting the following: ''STTR programs, including—

''(A) the data'';

(B) by striking ''(g)(10), (o)(9), and (o)(15), the number'' and all that follows through ''under each of the SBIR and STTR programs, and a description'' and inserting the following: ''(g)(8) and (o)(9); and

''(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital investment (including those majority owned and controlled by multiple venture capital firms) under each of the SBIR and STTR programs;

''(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

''(D) general information about the implementation and compliance with the allocation of funds required under subsection (cc) for firms majority owned and controlled by multiple venture capital firms under each of the SBIR and STTR programs;

''(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives filed by the Administrator with Federal agencies; and

''(F) a description''; and

(2) by inserting after paragraph (7) the following:

''(8) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data;''.

SEC. __302. DATA COLLECTION FROM AGENCIES FOR SBIR.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(3) by inserting after paragraph (7) the following:

''(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

''(A) whether an awardee—

''(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

''(I) the amount of venture capital that the awardee has received as of the date of the award; and

''(II) the amount of additional capital that the awardee has invested in the SBIR technology;

''(ii) has an investor that—

''(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

''(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

''(iii) is owned by a woman or has a woman as a principal investigator;

''(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

''(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

''(vii) is located in a State described in subsection (u)(3); and

''(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;''; and

(4) in paragraph (10), as so redesignated, by adding ''and'' at the end.

SEC. __303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (9) and inserting the following:

''(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

''(A) whether an applicant or awardee—

''(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

''(I) the amount of venture capital that the applicant or awardee has received as of the date of the application or award, as applicable; and

''(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

''(ii) has an investor that—

''(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

''(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

''(iii) is owned by a woman or has a woman as a principal investigator;

''(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

''(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

''(vii) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

''(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;'';

(2) in paragraph (14), by adding ''and'' at the end;

(3) by striking paragraph (15); and

(4) by redesignating paragraph (16) as paragraph (15).

SEC. __304. PUBLIC DATABASE.

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

''(i) has venture capital and, if so, whether the small business concern is registered as majority owned and controlled by multiple venture capital companies as required under subsection (cc)(3);

''(ii) is owned by a woman or has a woman as a principal investigator;

''(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(iv) received assistance under the FAST program under section 34 or the outreach program under subsection (s); or

''(v) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

SEC. __305. GOVERNMENT DATABASE.

Section 9(k)(2) of the Small Business Act (15 U.S.C. 638(k)(2)) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively;

(2) by inserting after subparagraph (B) the following:

''(C) includes, for each awardee—

''(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

''(ii) whether the awardee has venture capital, and, if so—

''(I) the amount of venture capital as of the date of the award;

''(II) the percentage of ownership of the awardee held by a venture capital firm, including whether the awardee is majority owned and controlled by multiple venture capital firms; and

''(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

''(iii) the names and locations of any affiliates of the awardee;

''(iv) the number of employees of the awardee;

''(v) the number of employees of the affiliates of the awardee; and

''(vi) the names of, and the percentage of ownership of the awardee held by—

''(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

''(II) any person that is not an individual and is not organized under the laws of a State or the United States;''; and

(3) in subparagraph (D), as so redesignated—

(A) in clause (ii), by striking ''and'' at the end; and

(B) by adding at the end, the following:

''(iv) whether the applicant was majority owned and controlled by multiple venture capital firms; and

''(v) the number of employees of the applicant;''.

SEC. __306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this division;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration;

(C) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency; and

(D) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraphs (B) and (C), and the determination made under subparagraph (D) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term ''applicable period'' means—

(1) for the first report submitted under this section, the period beginning on October 1, 2000, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. __307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

''(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to conduct a study described in subsection (a)(1) and make recommendations described in subsection (a)(2) not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, and every 4 years thereafter.

''(2) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).''.

SEC. __308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this division, is amended by adding at the end the following:

''(gg) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

''(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

''(2) the name of the small business concern or individual receiving the Phase III award; and

''(3) the dollar amount of the Phase III award.''.

SEC. __309. INTELLECTUAL PROPERTY PROTECTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies comply with the data rights protections for SBIR awardees and the technologies of SBIR awardees under section 9 of the Small Business Act (15 U.S.C. 638);

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes and mentor-protégé relationships and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the study conducted under subsection (a).

TITLE _____—POLICY DIRECTIVES

SEC. __401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this division and the amendments made by this division.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

SEC. __402. PRIORITIES FOR CERTAIN RESEARCH INITIATIVES.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(hh) RESEARCH INITIATIVES.—To the extent that such projects relate to the mission of the Federal agency, each Federal agency

participating in the SBIR program or STTR program shall encourage the submission of applications for support of projects relating to security, energy, transportation, or improving the security and quality of the water supply of the United States to such program.''.

(b) SUNSET.—Effective October 1, 2014, section 9(hh) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. __403. REPORT ON SBIR AND STTR PROGRAM GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ii) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

''(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

''(A) are science-based and statistically driven;

''(B) reflect the mission of the Federal agency; and

''(C) include factors relating to the economic impact of the programs.

''(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

''(A) the SBIR program and the STTR program of the Federal agency; and

''(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

''(3) REPORT.—

''(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

''(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

''(C) DEFINITION.—In this paragraph, the term 'appropriate committees of Congress' means—

''(i) the Committee on Small Business and Entrepreneurship of the Senate; and

''(ii) the Committee on Small Business and the Committee on Science and Technology of the House of Representatives.''.

SEC. __404. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(jj) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.''.

SA 1704. Mr. CARPER (for himself, Ms. COLLINS, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, between line 14 and 15, insert the following:

SEC. 1083. CERTAIN DISEASES PRESUMED TO BE WORK-RELATED CAUSE OF DISABILITY OR DEATH FOR FEDERAL EMPLOYEES IN FIRE PROTECTION ACTIVITIES.

(a) DEFINITION.—Section 8101 of title 5, United States Code, is amended by adding at the end the following:

''(21) 'employee in fire protection activities' means a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous material worker, who—

''(A) is trained in fire suppression;

''(B) has the legal authority and responsibility to engage in fire suppression;

''(C) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk; and

''(D) performs such activities as a primary responsibility of his or her job.''.

(b) PRESUMPTION RELATING TO EMPLOYEES IN FIRE PROTECTION ACTIVITIES.—Section 8102 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(c)(1)(A) With regard to an employee in fire protection activities, a disease specified in paragraph (2) shall be presumed to be proximately caused by the employment of such employee, subject to the length of service requirements specified. The disability or death of an employee in fire protection activities due to such a disease shall be presumed to result from personal injury sustained while in the performance of such employee's duty. Such presumptions may be rebutted by a preponderance of the evidence.

''(B) Any presumption described under subparagraph (A) shall apply only if the employee in fire protection activities is diagnosed with the disease for which the presumption is sought within 10 years of the last active date of employment as an employee in fire protection activities.

''(2) The following diseases shall be presumed to be proximately caused by the employment of the employee in fire protection activities:

''(A) If the employee has been employed for a minimum of 5 years in the aggregate as an employee in fire protection activities:

''(i) Heart disease.

''(ii) Lung disease.

''(iii) The following cancers:

''(I) Brain cancer.

''(II) Cancer of the blood or lymphatic systems.

''(III) Leukemia.

''(IV) Lymphoma (except Hodgkin's disease).

''(V) Multiple myeloma.

''(VI) Bladder cancer.

''(VII) Kidney cancer.

''(VIII) Testicular cancer.

''(IX) Cancer of the digestive system.

''(X) Colon cancer.

''(XI) Liver cancer.

''(XII) Skin cancer.

''(XIII) Lung cancer.

''(iv) Any other cancer the contraction of which the Secretary of Labor determines by regulation to be related to the hazards to which an employee in fire protection activities may be subject.

''(B) Regardless of the length of time an employee in fire protection activities has been employed, any uncommon infectious disease, including tuberculosis, hepatitis A, B, or C, and the human immunodeficiency virus (HIV), the contraction of which the Secretary of Labor determines by regulation to be related to the hazards to which an employee in fire protection activities may be subject.''.

(c) REPORT.—Not later than 5 years after the date of enactment of this Act, the National Institute of Occupational Safety and Health in the Centers for Disease Control and Prevention shall examine the implementation of this section and appropriate scientific and medical data related to the health risks associated with firefighting and submit to Congress a report which shall include—

(1) an analysis of the injury claims made under this section;

(2) an analysis of the available research related to the health risks associated with firefighting; and

(3) recommendations for any administrative or legislative actions necessary to ensure that those diseases most associated with firefighting are included in the presumption created by this section.

(d) EFFECTIVE DATE.—The amendment made by this section applies to an injury that is first diagnosed, or a death that occurs, on or after the date of enactment of this Act.

SEC. 1084. NOTIFICATIONS OF POSSIBLE EXPOSURE TO INFECTIOUS DISEASES.

Title XXVI of the Public Health Service Act (42 U.S.C. 300ff-11 et seq.) is amended by adding at the end the following:

"PART G—NOTIFICATIONS OF POSSIBLE EXPOSURE TO INFECTIOUS DISEASES

"SEC. 2695. INFECTIOUS DISEASES AND CIRCUMSTANCES RELEVANT TO NOTIFICATION REQUIREMENTS.

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this part, the Secretary shall complete the development of—

''(1) a list of potentially life-threatening infectious diseases to which emergency response employees may be exposed in responding to emergencies;

''(2) guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and

''(3) guidelines describing the manner in which medical facilities should make determinations for purposes of section 2697(d).

''(b) SPECIFICATION OF AIRBORNE INFECTIOUS DISEASES.—The list developed by the Secretary under subsection (a)(1) shall include a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means.

''(c) DISSEMINATION.—The Secretary shall—

''(1) transmit to State public health officers copies of the list and guidelines developed by the Secretary under subsection (a) with the request that the officers disseminate such copies as appropriate throughout the States; and

''(2) make such copies available to the public.

"SEC. 2696. ROUTINE NOTIFICATIONS WITH RESPECT TO AIRBORNE INFECTIOUS DISEASES IN VICTIMS ASSISTED.

''(a) ROUTINE NOTIFICATION OF DESIGNATED OFFICER.—

''(1) DETERMINATION BY TREATING FACILITY.—If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an airborne infectious disease, the medical facility shall notify the designated officer of the emergency response employees who transported the victim to the medical facility of the determination.

''(2) DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.—If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility

ascertaining the cause of death shall notify the designated officer of the emergency response employees who transported the victim to the initial medical facility of any determination by the medical facility that the victim had an airborne infectious disease.

''(b) REQUIREMENT OF PROMPT NOTIFICATION.—With respect to a determination described in paragraph (1) or (2) of subsection (a), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours after the determination is made.

''SEC. 2697. REQUEST FOR NOTIFICATIONS WITH RESPECT TO VICTIMS ASSISTED.

''(a) INITIATION OF PROCESS BY EMPLOYEE.—If an emergency response employee believes that the employee may have been exposed to an infectious disease by a victim of an emergency who was transported to a medical facility as a result of the emergency, and if the employee attended, treated, assisted, or transported the victim pursuant to the emergency, then the designated officer of the employee shall, upon the request of the employee, carry out the duties described in subsection (b) regarding a determination of whether the employee may have been exposed to an infectious disease by the victim.

''(b) INITIAL DETERMINATION BY DESIGNATED OFFICER.—The duties referred to in subsection (a) are that—

''(1) the designated officer involved collect the facts relating to the circumstances under which, for purposes of subsection (a), the employee involved may have been exposed to an infectious disease; and

''(2) the designated officer evaluate such facts and make a determination of whether, if the victim involved had any infectious disease included on the list issued under paragraph (1) of section 2695(a), the employee would have been exposed to the disease under such facts, as indicated by the guidelines issued under paragraph (2) of such section.

''(c) SUBMISSION OF REQUEST TO A MEDICAL FACILITY.—

''(1) IN GENERAL.—If a designated officer makes a determination under subsection (b)(2) that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim involved was transported a request for a response under subsection (d) regarding the victim of the emergency involved.

''(2) FORM OF REQUEST.—A request under paragraph (1) shall be in writing and be signed by the designated officer involved, and shall contain a statement of the facts collected pursuant to subsection (b)(1).

''(d) EVALUATION AND RESPONSE REGARDING REQUEST TO MEDICAL FACILITY.—

''(1) IN GENERAL.—If a medical facility receives a request under subsection (c), the medical facility shall evaluate the facts submitted in the request and make a determination of whether, on the basis of the medical information possessed by the facility regarding the victim involved, the emergency response employee was exposed to an infectious disease included on the list issued under paragraph (1) of section 2695(a), as indicated by the guidelines issued under paragraph (2) of such section.

''(2) NOTIFICATION OF EXPOSURE.—If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has been exposed to an infectious disease, the medical facility shall, in writing, notify the designated officer who submitted the request under subsection (c) of the determination.

''(3) FINDING OF NO EXPOSURE.—If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has not been exposed to an infectious disease, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the determination.

''(4) INSUFFICIENT INFORMATION.—

''(A) If a medical facility finds in evaluating facts for purposes of paragraph (1) that the facts are insufficient to make the determination described in such paragraph, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of the facts.

''(B)(i) If a medical facility finds in making a determination under paragraph (1) that the facility possesses no information on whether the victim involved has an infectious disease included on the list under section 2695(a), the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of such medical information.

''(ii) If after making a response under clause (i) a medical facility determines that the victim involved has an infectious disease, the medical facility shall make the determination described in paragraph (1) and provide the applicable response specified in this subsection.

''(e) TIME FOR MAKING RESPONSE.—After receiving a request under subsection (c) (including any such request resubmitted under subsection (g)(2)), a medical facility shall make the applicable response specified in subsection (d) as soon as is practicable, but not later than 48 hours after receiving the request.

''(f) DEATH OF VICTIM OF EMERGENCY.—

''(1) FACILITY ASCERTAINING CAUSE OF DEATH.—If a victim described in subsection (a) dies at or before reaching the medical facility involved, and the medical facility receives a request under subsection (c), the medical facility shall provide a copy of the request to the medical facility ascertaining the cause of death of the victim, if such facility is a different medical facility than the facility that received the original request.

''(2) RESPONSIBILITY OF FACILITY.—Upon the receipt of a copy of a request for purposes of paragraph (1), the duties otherwise established in this part regarding medical facilities shall apply to the medical facility ascertaining the cause of death of the victim in the same manner and to the same extent as such duties apply to the medical facility originally receiving the request.

''(g) ASSISTANCE OF PUBLIC HEALTH OFFICER.—

''(1) EVALUATION OF RESPONSE OF MEDICAL FACILITY REGARDING INSUFFICIENT FACTS.—

''(A) In the case of a request under subsection (c) to which a medical facility has made the response specified in subsection (d)(4)(A) regarding the insufficiency of facts, the public health officer for the community in which the medical facility is located shall evaluate the request and the response, if the designated officer involved submits such documents to the officer with the request that the officer make such an evaluation.

''(B) As soon as is practicable after a public health officer receives a request under paragraph (1), but not later than 48 hours after receipt of the request, the public health officer shall complete the evaluation required in such paragraph and inform the designated officer of the results of the evaluation.

''(2) FINDINGS OF EVALUATION.—

''(A) If an evaluation under paragraph (1)(A) indicates that the facts provided to the medical facility pursuant to subsection (c) were sufficient for purposes of determinations under subsection (d)(1)—

''(i) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

''(ii) the medical facility shall provide to the designated officer the applicable response specified in subsection (d).

''(B) If an evaluation under paragraph (1)(A) indicates that the facts provided in the request to the medical facility were insufficient for purposes of determinations specified in subsection (c)—

''(i) the public health officer shall provide advice to the designated officer regarding the collection and description of appropriate facts; and

''(ii) if sufficient facts are obtained by the designated officer—

''(I) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

''(II) the medical facility shall provide to the designated officer the appropriate response under subsection (c).

''SEC. 2698. PROCEDURES FOR NOTIFICATION OF EXPOSURE.

''(a) CONTENTS OF NOTIFICATION TO OFFICER.—In making a notification required under section 2696 or 2697(d)(2), a medical facility shall provide—

''(1) the name of the infectious disease involved; and

''(2) the date on which the victim of the emergency involved was transported by emergency response employees to the medical facility involved.

''(b) MANNER OF NOTIFICATION.—If a notification under section 2696 or 2697(d)(2) is mailed or otherwise indirectly made—

''(1) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

''(2) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

''SEC. 2699. NOTIFICATION OF EMPLOYEE.

''(a) IN GENERAL.—After receiving a notification for purposes of section 2696 or 2697(d)(2), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

''(1) responded to the emergency involved; and

''(2) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

''(b) CERTAIN CONTENTS OF NOTIFICATION TO EMPLOYEE.—A notification under this subsection to an emergency response employee shall inform the employee of—

''(1) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

''(2) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

''(3) if medically appropriate under such criteria, the date of such emergency.

''(c) RESPONSES OTHER THAN NOTIFICATION OF EXPOSURE.—After receiving a response under paragraph (3) or (4) of subsection (d) of section 2697, or a response under subsection (g)(1) of such section, the designated officer for the employee shall, to the extent practicable, immediately inform the employee of the response.

''SEC. 2699a. SELECTION OF DESIGNATED OFFICERS.

''(a) IN GENERAL.—For the purposes of receiving notifications and responses and making requests under this part on behalf of emergency response employees, the public health officer of each State shall designate 1 official or officer of each employer of emergency response employees in the State.

''(b) PREFERENCE IN MAKING DESIGNATIONS.—In making the designations required in subsection (a), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

''SEC. 2699b. LIMITATIONS WITH RESPECT TO DUTIES OF MEDICAL FACILITIES.

''The duties established in this part for a medical facility—

''(1) shall apply only to medical information possessed by the facility during the period in which the facility is treating the victim for conditions arising from the emergency, or during the 60-day period beginning on the date on which the victim is transported by emergency response employees to the facility, whichever period expires first; and

''(2) shall not apply to any extent after the expiration of the 30-day period beginning on the expiration of the applicable period referred to in paragraph (1), except that such duties shall apply with respect to any request under section 2697(c) received by a medical facility before the expiration of such 30-day period.

''SEC. 2699c. RULES OF CONSTRUCTION.

''(a) LIABILITY OF MEDICAL FACILITIES AND DESIGNATED OFFICERS.—This part may not be construed to authorize any cause of action for damages or any civil penalty against any medical facility, or any designated officer, for failure to comply with the duties established in this part.

''(b) TESTING.—This part may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

''(c) CONFIDENTIALITY.—This part may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

''(d) FAILURE TO PROVIDE EMERGENCY SERVICES.—This part may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

''SEC. 2699d. INJUNCTIONS REGARDING VIOLATION OF PROHIBITION.

''(a) IN GENERAL.—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to any violation of this part.

''(b) FACILITATION OF INFORMATION ON VIOLATIONS.—The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of this part. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief.

''SEC. 2699e. APPLICABILITY OF PART.

''This part shall not apply in a State if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this part.''.

SA 1705. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title II, add the following:

SEC. 245. EXTENSION OF DEADLINE FOR STUDY ON BOOST-PHASE MISSILE DEFENSE.

Section 232(c)(1) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4392) is amended by striking ''October 31, 2010'' and inserting ''March 1, 2011''.

SA 1706. Mr. DORGAN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title IX, add the following:

SEC. 933. PLAN ON ACCESS TO NATIONAL AIRSPACE FOR UNMANNED AIRCRAFT.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Transportation shall, after consultation with the Secretary of Homeland Security, jointly develop a plan for providing access to the national airspace for unmanned aircraft of the Department of Defense.

(b) ELEMENTS.—The plan required by subsection (a) shall include the following:

(1) A description of how the Department of Defense and the Department of Transportation will communicate and cooperate, at the executive, management, and action levels, to provide access to the national airspace for unmanned aircraft of the Department of Defense.

(2) Specific milestones, aligned to operational and training needs, for providing access to the national airspace for unmanned aircraft and a transition plan for sites programmed to be activated as unmanned aerial system sites during fiscal years 2010 through 2015.

(3) Recommendations for policies with respect to use of the national airspace, flight standards, and operating procedures that should be implemented by the Department of Defense and the Department of Transportation to accommodate unmanned aircraft assigned to any State or territory of the United States.

(4) An identification of resources required by the Department of Defense and the Department of Transportation to execute the plan.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Transportation shall submit to the congressional defense committees, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a).

SA 1707. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, after line 23, insert the following:

SEC. 557. REPORT ON YELLOW RIBBON REINTEGRATION PROGRAM.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the various reintegration programs being administered in support of National Guard and Reserve members and their families.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An evaluation of the initial implementation of the Yellow Ribbon Reintegration Program in fiscal year 2009.

(2) An assessment of the feasibility of incorporating the best practices from the supplementary full deployment services pilot programs of various States into the Yellow Ribbon program.

(3) An assessment of the extent to which Yellow Ribbon funding, although requested in multiple component accounts, supports robust joint programs that provide reintegration and support services to National Guard and Reserve members and their families regardless of military affiliation.

(4) An assessment of the extent to which Yellow Ribbon programs are coordinating closely with the Department of Veterans Affairs and its various veterans' programs.

(5) Plans for further implementation of the Yellow Ribbon Reintegration Program in fiscal year 2010.

SA 1708. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. UNITED STATES COORDINATOR FOR BIOSECURITY.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the President shall appoint, as an officer within the Executive Office of the President, a ''Coordinator for Biosecurity'' (referred to in this section as the ''Coordinator'').

(b) OFFICER.—

(1) RESPONSIBILITY.—The Coordinator shall be responsible on a full-time basis for the responsibilities described in this section.

(2) LIMITATION.—No person shall serve as Coordinator while serving in any other position in the Federal Government.

(c) DUTIES.—The responsibilities of the Coordinator shall include each of the following:

(1) Serving as the principal advisor to the President on all matters relating to biosecurity, including related public health preparedness.

(2) Developing a comprehensive and well-coordinated, near- and long-term, United States strategy and policies for preventing, preparing for, and responding to biological threats and attacks, including related public health preparedness, which strategies and policies shall include—

(A) strengthening of United States intelligence collection efforts, to identify foreign or domestic plans to develop biological weapons and to interdict any effort to use biological weapons against the United States before such use can take place;

(B) building capacity to mitigate the consequences of biological threats and attacks, including the coordination of global biosurveillance efforts to provide early warning

detection and situational awareness of deliberately caused and natural disease outbreaks and improving the capacity of public health and medical care systems;

(C) accelerating the development, manufacture, and procurement of medical countermeasures, including new and innovative medicines, vaccines, and diagnostics, and strengthening production capabilities;

(D) ensuring that domestic and international biosecurity programs are coordinated and optimized to enable robust research and development efforts while limiting the risk of diversion of pathogens for malevolent purposes;

(E) identifying clear and measurable objectives, milestones, and targets to which departments and agencies can be held accountable;

(F) identification of gaps, duplication, and other inefficiencies in programs, initiatives, and activities and the steps necessary to overcome those obstacles;

(G) developing and carrying out plans to coordinate United States programs, initiatives, and other activities relating to the prevention of, preparation for, and response to, biological threats and attacks (including related public health preparedness), including activities of the Department of Health and Human Services, the Department of Defense, the Department of State, the Department of Homeland Security, the Department of Agriculture, the Environmental Protection Agency, the National Science Foundation, and other Federal agencies involved with biosecurity activities; and

(H) coordination of activities with biosecurity stakeholders.

(3) Leading interagency coordination of United States efforts to implement the strategy and policies described in paragraphs (2) and (6).

(4) Conducting oversight and evaluation of the implementation of programs, initiatives, and activities to prevent, prepare for, and respond to biological threats and attacks, including related public health preparedness activities, by relevant government departments and agencies.

(5) Overseeing the development of a comprehensive and coordinated budget for programs, initiatives, and activities to prevent, prepare for, and respond to, biological threats and attacks, including related public health preparedness, by ensuring that such budget adequately reflects the priorities of the challenges and is effectively executed, and carrying out other appropriate budgetary authorities.

(6) Carrying out such additional duties related to biosecurity as the President may determine to be appropriate and consistent with the duties listed in paragraph (2).

(d) STAFF.—The Coordinator may, consistent with subsection (a)—

(1) appoint, employ, fix the compensation of, and terminate the employment of such personnel as may be necessary to enable the Coordinator to perform the Coordinator's duties under this section and may fix that compensation without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for a member of the personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency, the temporary reassignment within the Federal Government of personnel employed by such department or agency, in order to implement United States policy with regard to biosecurity, including related public health preparedness;

(3) use or enter into an agreement to use, for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies; and

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at daily rates of compensation for individuals not to exceed the daily equivalent of the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(e) ANNUAL REPORT ON STRATEGIC PLAN.—For fiscal year 2011 and each fiscal year thereafter, the Coordinator shall submit to Congress, on the date that the President submits the budget of the United States Government to Congress under section 1105 of title 31, United States Code, a report on the strategy and policies developed pursuant to subsection (c)(2), together with any recommendations of the Coordinator for legislative changes that the Coordinator considers appropriate with respect to such strategy and policies and their implementation.

(f) PARTICIPATION OF COORDINATOR FOR BIOSECURITY IN THE NATIONAL SECURITY COUNCIL AND IN THE HOMELAND SECURITY COUNCIL.—

(1) NATIONAL SECURITY COUNCIL.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following:

''(m) PARTICIPATION OF COORDINATOR FOR BIOSECURITY.—The United States Coordinator for Biosecurity (or, in the Coordinator's absence, the individual designated by the President to serve as the Acting Coordinator for Biosecurity) may, in the performance of the Coordinator's duty as principal advisor to the President on all matters relating to biosecurity, and, subject to the direction of the President, attend and participate in meetings of the National Security Council.''.

(2) HOMELAND SECURITY COUNCIL.—Section 903 of the Homeland Security Act of 2002 (6 U.S.C. 493) is amended by adding at the end the following new subsection:

''(c) ATTENDANCE OF THE COORDINATOR FOR BIOSECURITY.—The United States Coordinator for Biosecurity (or, in the Coordinator's absence, the individual designated by the President to serve as the Acting Coordinator for Biosecurity) may, in the performance of the Coordinator's duty as principal advisor to the President on all matters relating to biosecurity, and, subject to the direction of the President, attend and participate in meetings of the Council.''.

SA 1709. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, between lines 14 and 15, insert the following:

SEC. 1083. AUTHORITY TO USE OH–38 AIRCRAFT FUNDING FOR IMPROVEMENTS AND MODIFICATIONS TO ARMY AND SPECIAL OPERATIONS ROTORCRAFT.

Notwithstanding any other provision of law, amounts authorized to be appropriated by this or any other Act for the purpose of enhancing, improving or modifying OH–58 aircraft may be used for that purpose and for enhancing, improving, or modifying any existing Army or Special Operation Forces rotorcraft for the purpose of providing armed scout helicopter mission capability.

SA 1710. Mr. LEVIN (for himself, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 321, in the table of subchapters in the quoted text following line 21, strike the items relating to subchapters V, VI, and VII, and insert the following:

''V. Classified Information Procedures	949p–1.
''VI. Sentences	949s.
''VII. Post-Trial Procedures and Review of Military Commissions	950a.
''VIII. Punitive Matters	950p.

On page 323, between lines 22 and 23, insert the following:

''(8) NATIONAL SECURITY.—The term ''national security'' means the national defense and foreign relations of the United States.

Beginning on page 347, strike line 19 and all that follows through page 349, line 10.

On page 354, strike line 13 and all that follows through page 355, line 10.

On page 360, strike line 24 and insert the following:

''SUBCHAPTER V—CLASSIFIED INFORMATION PROCEDURES

''Sec.
''949p–1. Protection of classified information: applicability of subchapter.
''949p–2. Pretrial conference.
''949p–3. Protective orders.
''949p–4. Discovery of, and access to, classified information by the accused.
''949p–5. Notice by accused of intention to disclose classified information.
''949p–6. Procedure for cases involving classified information.
''949p–7. Introduction of classified information into evidence.

''§ 949p–1. Protection of classified information: applicability of subchapter

''(a) PROTECTION OF CLASSIFIED INFORMATION.—Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. Under no circumstances may a military judge order the release of classified information to any person not authorized to receive such information.

''(b) ACCESS TO EVIDENCE.—Any information admitted into evidence pursuant to any rule, procedure, or order by the military judge shall be provided to the accused.

''(c) DECLASSIFICATION.—Trial counsel shall work with the original classification authorities for evidence that may be used at trial to ensure that such evidence is declassified to the maximum extent possible, consistent with the requirements of national security. A decision not to declassify evidence under this section shall not be subject to review by a military commission or upon appeal.

''(d) CONSTRUCTION OF PROVISIONS.—The judicial construction of the Classified Information Procedures Act (18 U.S.C. App.) shall be authoritative in the interpretation of this subchapter, except to the extent that such construction is inconsistent with the specific requirements of this chapter.

''§ 949p–2. Pretrial conference

''(a) MOTION.—At any time after service of charges, any party may move for a pretrial

conference to consider matters relating to classified information that may arise in connection with the prosecution.

''(b) CONFERENCE.—Following a motion under subsection (a), or sua sponte, the military judge shall promptly hold a pretrial conference. Upon request by either party, the court shall hold such conference ex parte to the extent necessary to protect classified information from disclosure, in accordance with the practice of the Federal courts under the Classified Information Procedures Act (18 U.S.C. App.).

''(c) MATTERS TO BE ESTABLISHED AT PRETRIAL CONFERENCE.—

''(1) TIMING OF SUBSEQUENT ACTIONS.—At the pretrial conference, the military judge shall establish the timing of—

''(A) requests for discovery;

''(B) the provision of notice required by section 949p–5 of this title; and

''(C) the initiation of the procedure established by section 949p–6 of this title.

''(2) OTHER MATTERS.—At the pretrial conference, the military judge may also consider any matter—

''(A) which relates to classified information; or

''(B) which may promote a fair and expeditious trial.

''(d) EFFECT OF ADMISSIONS BY ACCUSED AT PRETRIAL CONFERENCE.—No admission made by the accused or by any counsel for the accused at a pretrial conference under this section may be used against the accused unless the admission is in writing and is signed by the accused and by the counsel for the accused.

''§ 949p–3. Protective orders

''Upon motion of the trial counsel, the military judge shall issue an order to protect against the disclosure of any classified information that has been disclosed by the United States to any accused in any military commission under this chapter or that has otherwise been provided to, or obtained by, any such accused in any such military commission.

''§ 949p–4. Discovery of, and access to, classified information by the accused

''(a) LIMITATIONS ON DISCOVERY OR ACCESS BY THE ACCUSED.—

''(1) DECLARATIONS BY THE UNITED STATES OF DAMAGE TO NATIONAL SECURITY.—In any case before a military commission in which the United States seeks to delete, withhold, or otherwise obtain other relief with respect to the discovery of or access to any classified information, the trial counsel shall submit a declaration invoking the United States' classified information privilege and setting forth the damage to the national security that the discovery of or access to such information reasonably could be expected to cause. The declaration shall be signed by a knowledgeable United States official possessing authority to classify information.

''(2) STANDARD FOR AUTHORIZATION OF DISCOVERY OR ACCESS.—Upon the submission of a declaration under paragraph (1), the military judge shall not authorize the discovery of or access to such classified information unless the military judge determines that such classified information would be noncumulative, relevant, and helpful to a legally cognizable defense, rebuttal of the prosecution's case, or to sentencing, in accordance with standards generally applicable to discovery of or access to classified information in Federal criminal cases. If the discovery of or access to such classified information is authorized, it shall be addressed in accordance with the requirements of subsection (b).

''(b) DISCOVERY OF CLASSIFIED INFORMATION.—

''(1) SUBSTITUTIONS AND OTHER RELIEF.—The military judge, in assessing the accused's discovery of or access to classified information under this section, may authorize the United States—

''(A) to delete or withhold specified items of classified information;

''(B) to substitute a summary for classified information; or

''(C) to substitute a statement admitting relevant facts that the classified information or material would tend to prove.

''(2) EX PARTE PRESENTATIONS.—The military judge shall permit the trial counsel to make a request for an authorization under paragraph (1) in the form of an ex parte presentation to the extent necessary to protect classified information, in accordance with the practice of the Federal courts under the Classified Information Procedures Act (18 U.S.C. App.). If the military judge enters an order granting relief following such an ex parte showing, the entire text of the written submission shall be sealed and preserved in the records of the military commission to be made available to the appellate court in the event of an appeal.

''(3) ACTION BY MILITARY JUDGE.—The military judge shall grant the request of the trial counsel to substitute a summary or to substitute a statement admitting relevant facts, or to provide other relief in accordance with paragraph (1), if the military judge finds that the summary, statement, or other relief would provide the accused with substantially the same ability to make a defense as would discovery of or access to the specific classified information.

''(c) RECONSIDERATION.—An order of a military judge authorizing a request of the trial counsel to substitute, summarize, withhold, or prevent access to classified information under this section is not subject to a motion for reconsideration by the accused, if such order was entered pursuant to an ex parte showing under this section.

''§ 949p–5. Notice by accused of intention to disclose classified information

''(a) NOTICE BY ACCUSED.—

''(1) NOTIFICATION OF TRIAL COUNSEL AND MILITARY JUDGE.—If an accused reasonably expects to disclose, or to cause the disclosure of, classified information in any manner in connection with any trial or pretrial proceeding involving the prosecution of such accused, the accused shall, within the time specified by the military judge or, where no time is specified, within 30 days before trial, notify the trial counsel and the military judge in writing. Such notice shall include a brief description of the classified information. Whenever the accused learns of additional classified information the accused reasonably expects to disclose, or to cause the disclosure of, at any such proceeding, the accused shall notify trial counsel and the military judge in writing as soon as possible thereafter and shall include a brief description of the classified information.

''(2) LIMITATION ON DISCLOSURE BY ACCUSED.—No accused shall disclose, or cause the disclosure of, any information known or believed to be classified in connection with a trial or pretrial proceeding until—

''(A) notice has been given under paragraph (1); and

''(B) the United States has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 949p–6 of this title and the time for the United States to appeal such determination under section 950d of this title has expired or any appeal under that section by the United States is decided.

''(b) FAILURE TO COMPLY.—If the accused fails to comply with the requirements of subsection (a), the military judge—

''(1) may preclude disclosure of any classified information not made the subject of notification; and

''(2) may prohibit the examination by the accused of any witness with respect to any such information.

''§ 949p–6. Procedure for cases involving classified information

''(a) MOTION FOR HEARING.—

''(1) REQUEST FOR HEARING.—Within the time specified by the military judge for the filing of a motion under this section, either party may request the military judge to conduct a hearing to make all determinations concerning the use, relevance, or admissibility of classified information that would otherwise be made during the trial or pretrial proceeding.

''(2) CONDUCT OF HEARING.—Upon a request by either party under paragraph (1), the military judge shall conduct such a hearing and shall rule prior to conducting any further proceedings.

''(3) IN CAMERA HEARING UPON DECLARATION TO COURT BY APPROPRIATE OFFICIAL OF RISK OF DISCLOSURE OF CLASSIFIED INFORMATION.—Any hearing held pursuant to this subsection (or any portion of such hearing specified in the request of a knowledgeable United States official) shall be held in camera if a knowledgeable United States official possessing authority to classify information submits to the military judge a declaration that a public proceeding may result in the disclosure of classified information. Classified information is not subject to disclosure under this section unless the information is relevant and necessary to an element of the offense or a legally cognizable defense and is otherwise admissible in evidence.

''(4) MILITARY JUDGE TO MAKE DETERMINATIONS IN WRITING.—As to each item of classified information, the military judge shall set forth in writing the basis for the determination.

''(b) NOTICE AND USE OF CLASSIFIED INFORMATION BY THE GOVERNMENT.—

''(1) NOTICE TO ACCUSED.—Before any hearing is conducted pursuant to a request by the trial counsel under subsection (a), trial counsel shall provide the accused with notice of the classified information that is at issue. Such notice shall identify the specific classified information at issue whenever that information previously has been made available to the accused by the United States. When the United States has not previously made the information available to the accused in connection with the case the information may be described by generic category, in such forms as the military judge may approve, rather than by identification of the specific information of concern to the United States.

''(2) ORDER BY MILITARY JUDGE UPON REQUEST OF ACCUSED.—Whenever the trial counsel requests a hearing under subsection (a), the military judge, upon request of the accused, may order the trial counsel to provide the accused, prior to trial, such details as to the portion of the charge or specification at issue in the hearing as are needed to give the accused fair notice to prepare for the hearing.

''(c) SUBSTITUTIONS.—

''(1) IN CAMERA PRETRIAL HEARING.—Upon request of the trial counsel pursuant to the Military Commission Rules of Evidence, and in accordance with the security procedures established by the military judge, the military judge shall conduct a classified in camera pretrial hearing concerning the admissibility of classified information.

''(2) PROTECTION OF SOURCES, METHODS, AND ACTIVITIES BY WHICH EVIDENCE ACQUIRED.—The military judge shall permit the trial counsel to introduce otherwise admissible evidence, including a substituted evidentiary foundation pursuant to the procedures described in subsection (d), before a military

commission while protecting from disclosure the sources, methods, or activities by which the United States acquired the evidence if the military judge finds that the sources, methods, or activities are classified, the evidence is reliable, and the redaction is consistent with affording the accused a fair trial.

''(d) ALTERNATIVE PROCEDURE FOR DISCLOSURE OF CLASSIFIED INFORMATION.—

''(1) MOTION BY THE UNITED STATES.—Upon any determination by the military judge authorizing the disclosure of specific classified information under the procedures established by this section, the trial counsel may move that, in lieu of the disclosure of such specific classified information, the military judge order—

''(A) the substitution for such classified information of a statement admitting relevant facts that the specific classified information would tend to prove;

''(B) the substitution for such classified information of a summary of the specific classified information; or

''(C) any other procedure or redaction limiting the disclosure of specific classified information.

''(2) ACTION ON MOTION.—The military judge shall grant such a motion of the trial counsel if the military judge finds that the statement, summary, or other procedure or redaction will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

''(3) HEARING ON MOTION.—The military judge shall hold a hearing on any motion under this subsection. Any such hearing shall be held in camera at the request of a knowledgeable United States official possessing authority to classify information.

''(4) SUBMISSION OF STATEMENT OF DAMAGE TO NATIONAL SECURITY IF DISCLOSURE ORDERED.—The trial counsel may, in connection with a motion under paragraph (1), submit to the military judge a declaration signed by a knowledgeable United States official possessing authority to classify information certifying that disclosure of classified information would cause identifiable damage to the national security of the United States and explaining the basis for the classification of such information. If so requested by the trial counsel, the military judge shall examine such declaration during an ex parte presentation.

''(e) SEALING OF RECORDS OF IN CAMERA HEARINGS.—If at the close of an in camera hearing under this section (or any portion of a hearing under this section that is held in camera), the military judge determines that the classified information at issue may not be disclosed or elicited at the trial or pretrial proceeding, the record of such in camera hearing shall be sealed and preserved for use in the event of an appeal. The accused may seek reconsideration of the military judge's determination prior to or during trial.

''(f) PROHIBITION ON DISCLOSURE OF CLASSIFIED INFORMATION BY THE ACCUSED; RELIEF FOR ACCUSED WHEN THE UNITED STATES OPPOSES DISCLOSURE.—

''(1) ORDER TO PREVENT DISCLOSURE BY ACCUSED.—Whenever the military judge denies a motion by the trial counsel that the judge issue an order under subsection (a), (c), or (d) and the trial counsel files with the military judge a declaration signed by a knowledgeable United States official possessing authority to classify information objecting to disclosure of the classified information at issue, the military judge shall order that the accused not disclose or cause the disclosure of such information.

''(2) RESULT OF ORDER UNDER PARAGRAPH (1).—Whenever an accused is prevented by an order under paragraph (1) from disclosing or causing the disclosure of classified information, the military judge shall dismiss the case; except that, when the military judge determines that the interests of justice would not be served by dismissal of the case, the military judge shall order such other action, in lieu of dismissing the charge or specification, as the military judge determines is appropriate. Such action may include, but need not be limited to, the following:

''(A) Dismissing specified charges or specifications.

''(B) Finding against the United States on any issue as to which the excluded classified information relates.

''(C) Striking or precluding all or part of the testimony of a witness.

''(3) TIME FOR THE UNITED STATES TO SEEK INTERLOCUTORY APPEAL.—An order under paragraph (2) shall not take effect until the military judge has afforded the United States—

''(A) an opportunity to appeal such order under section 950d of this title; and

''(B) an opportunity thereafter to withdraw its objection to the disclosure of the classified information at issue.

''(g) RECIPROCITY.—

''(1) DISCLOSURE OF REBUTTAL INFORMATION.—Whenever the military judge determines that classified information may be disclosed in connection with a trial or pretrial proceeding, the military judge shall, unless the interests of fairness do not so require, order the United States to provide the accused with the information it expects to use to rebut the classified information. The military judge may place the United States under a continuing duty to disclose such rebuttal information.

''(2) SANCTION FOR FAILURE TO COMPLY.—If the United States fails to comply with its obligation under this subsection, the military judge—

''(A) may exclude any evidence not made the subject of a required disclosure; and

''(B) may prohibit the examination by the United States of any witness with respect to such information.

''§ 949p–7. Introduction of classified information into evidence

''(a) PRESERVATION OF CLASSIFICATION STATUS.—Writings, recordings, and photographs containing classified information may be admitted into evidence in proceedings of military commissions under this chapter without change in their classification status.

''(b) PRECAUTIONS BY MILITARY JUDGES.—

''(1) PRECAUTIONS IN ADMITTING CLASSIFIED INFORMATION INTO EVIDENCE.—The military judge in a trial by military commission, in order to prevent unnecessary disclosure of classified information, may order admission into evidence of only part of a writing, recording, or photograph, or may order admission into evidence of the whole writing, recording, or photograph with excision of some or all of the classified information contained therein, unless the whole ought in fairness be considered.

''(2) CLASSIFIED INFORMATION KEPT UNDER SEAL.—The military judge shall allow classified information offered or accepted into evidence to remain under seal during the trial, even if such evidence is disclosed in the military commission, and may, upon motion by the Government, seal exhibits containing classified information for any period after trial as necessary to prevent a disclosure of classified information when a knowledgeable United States official possessing authority to classify information submits to the military judge a declaration setting forth the damage to the national security that the disclosure of such information reasonably could be expected to cause.

''(c) TAKING OF TESTIMONY.—

''(1) OBJECTION BY TRIAL COUNSEL.—During the examination of a witness, trial counsel may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

''(2) ACTION BY MILITARY JUDGE.—Following an objection under paragraph (1), the military judge shall take such suitable action to determine whether the response is admissible as will safeguard against the compromise of any classified information. Such action may include requiring trial counsel to provide the military judge with a proffer of the witness' response to the question or line of inquiry and requiring the accused to provide the military judge with a proffer of the nature of the information sought to be elicited by the accused. Upon request, the military judge may accept an ex parte proffer by trial counsel to the extent necessary to protect classified information from disclosure, in accordance with the practice of the Federal courts under the Classified Information Procedures Act (18 U.S.C. App.).

''(d) DISCLOSURE AT TRIAL OF CERTAIN STATEMENTS PREVIOUSLY MADE BY A WITNESS.—

''(1) MOTION FOR PRODUCTION OF STATEMENTS IN POSSESSION OF THE UNITED STATES.—After a witness called by the trial counsel has testified on direct examination, the military judge, on motion of the accused, may order production of statements of the witness in the possession of the United States which relate to the subject matter as to which the witness has testified. This paragraph does not preclude discovery or assertion of a privilege otherwise authorized.

''(2) INVOCATION OF PRIVILEGE BY THE UNITED STATES.—If the United States invokes a privilege, the trial counsel may provide the prior statements of the witness to the military judge during an ex parte presentation to the extent necessary to protect classified information from disclosure, in accordance with the practice of the Federal courts under the Classified Information Procedures Act (18 U.S.C. App.).

''(3) ACTION BY MILITARY JUDGE ON MOTION.—If the military judge finds that disclosure of any portion of the statement identified by the United States as classified would be detrimental to the national security in the degree to warrant classification under the applicable Executive Order, statute, or regulation, that such portion of the statement is consistent with the testimony of the witness, and that the disclosure of such portion is not necessary to afford the accused a fair trial, the military judge shall excise that portion from the statement. If the military judge finds that such portion of the statement is inconsistent with the testimony of the witness or that its disclosure is necessary to afford the accused a fair trial, the military judge, shall, upon the request of the trial counsel, review alternatives to disclosure in accordance with section 949p–6(d) of this title.

''SUBCHAPTER VI—SENTENCES

On page 362, line 9, strike ''SUBCHAPTER VI'' and insert ''SUBCHAPTER VII''.

On page 362, in the table of sections in the quoted text following line 10, strike the item relating to section 950d and insert the following:

''949d. Interlocutory appeals by the United States.

Beginning on page 368, strike line 7 and all that follows through page 369, line 8, and insert the following:

"§ 950d. Interlocutory appeals by the United States

''(a) INTERLOCUTORY APPEAL.—Except as provided in subsection (b), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the United States Court of Appeals for the Armed Forces under section 950f of this title of any order or ruling of the military judge—

''(1) that terminates proceedings of the military commission with respect to a charge or specification;

''(2) that excludes evidence that is substantial proof of a fact material in the proceeding;

''(3) that relates to a matter under subsection (c) or (d) of section 949d of this title; or

''(4) that, with respect to classified information—

''(A) authorizes the disclosure of such information;

''(B) imposes sanctions for nondisclosure of such information; or

''(C) refuses a protective order sought by the United States to prevent the disclosure of such information.

''(b) LIMITATION.—The United States may not appeal under subsection (a) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

''(c) SCOPE OF APPEAL RIGHT WITH RESPECT TO CLASSIFIED INFORMATION.—The United States has the right to appeal under paragraph (4) of subsection (a) whenever the military judge enters an order or ruling that would require the disclosure of classified information, without regard to whether the order or ruling appealed from was entered under this chapter, another provision of law, a rule, or otherwise. Any such appeal may embrace any preceding order, ruling, or reasoning constituting the basis of the order or ruling that would authorize such disclosure.

''(d) TIMING AND ACTION ON INTERLOCUTORY APPEALS RELATING TO CLASSIFIED INFORMATION.—

''(1) APPEAL TO BE EXPEDITED.—An appeal taken pursuant to paragraph (4) of subsection (a) shall be expedited by the United States Court of Appeals for the Armed Forces.

''(2) APPEALS BEFORE TRIAL.—If such an appeal is taken before trial, the appeal shall be taken within 10 days after the order or ruling appealed from and the trial shall not commence until the appeal is decided.

''(3) APPEALS DURING TRIAL.—If such an appeal is taken during trial, the military judge shall adjourn the trial until the appeal is decided, and the court of appeals—

''(A) shall hear argument on such appeal within 4 days of the adjournment of the trial (excluding weekends and holidays);

''(B) may dispense with written briefs other than the supporting materials previously submitted to the military judge;

''(C) shall render its decision within four days of argument on appeal (excluding weekends and holidays); and

''(D) may dispense with the issuance of a written opinion in rendering its decision.

''(e) NOTICE AND TIMING OF OTHER APPEALS.—The United States shall take an appeal of an order or ruling under subsection (a), other than an appeal under paragraph (4) of that subsection, by filing a notice of appeal with the military judge within 5 days after the date of the order or ruling.

''(f) METHOD OF APPEAL.—An appeal under this section shall be forwarded, by means specified in regulations prescribed by the Secretary of Defense, directly to the United States Court of Appeals for the Armed Forces.

''(g) APPEALS COURT TO ACT ONLY WITH RESPECT TO MATTER OF LAW.—In ruling on an appeal under paragraph (1), (2), or (3) of subsection (a), the appeals court may act only with respect to matters of law.

''(h) SUBSEQUENT APPEAL RIGHTS OF ACCUSED NOT AFFECTED.—An appeal under paragraph (4) of subsection (a), and a decision on such appeal, shall not affect the right of the accused, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the military judge on remand of a ruling appealed from during trial.''.

On page 374, line 4, strike ''SUBCHAPTER VII'' and insert ''SUBCHAPTER VIII''.

SA 1711. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title V, add the following:

SEC. 573. REPORT ON EXPANSION OF AUTHORITY OF A MEMBER OF THE ARMED FORCES TO DESIGNATE PERSONS TO DIRECT DISPOSITION OF THE REMAINS OF THE MEMBER.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report evaluating the potential effects of expanding the list of persons under section 1482(c) of title 10, United States Code, who may be designated by a member of the Armed Forces as the person authorized to direct disposition of the remains of the member if the member is deceased.

SA 1712. Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. GRAHAM, Mr. KAUFMAN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 483, between lines 8 and 9, insert the following:

Subtitle D—VOICE Act

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the ''Victims of Iranian Censorship Act''or the ''VOICE Act''.

SEC. 1242. FINDINGS.

Congress makes the following findings:

(1) The Government of Iran is engaged in a range of activities that interfere with, or infringe upon, the right of the Iranian people to—

(A) access accurate, independent news and information; and

(B) exercise freedom of speech, freedom of expression, freedom of assembly, and freedom of the press, in particular through electronic media.

(2) Since the June 12, 2009, presidential election in Iran, the Government of Iran has—

(A) arrested, detained, imprisoned, and assaulted numerous Iranian journalists;

(B) prohibited non-Iranian government news services, including the Associated Press, from distributing reports in Farsi;

(C) interrupted short message service (SMS), preventing text message communications and blocking Internet sites that utilize such services;

(D) partially jammed shortwave and medium wave transmissions of Radio Farda, the Persian language service of Radio Free Europe/Radio Liberty;

(E) intermittently jammed satellite broadcasts by Radio Farda, the Voice of America's Persian News Network (PNN), the British Broadcasting Corporation (BBC), and other non-Iranian government news services; and

(F) blocked Web sites and Web blogs, including social networking and information-sharing sites, such as Facebook, Twitter, and YouTube.

(3) These and other actions undertaken by the Government of Iran are in violation of the International Covenant on Civil and Political Rights, which was entered into force March 23, 1976, ratified by Iran, and states: ''Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.''.

SEC. 1243. SENSE OF CONGRESS.

It is the sense of Congress that the United States—

(1) respects the sovereignty, proud history, and rich culture of the Iranian people;

(2) respects the universal values of freedom of speech and freedom of the press in Iran and throughout the world;

(3) supports the Iranian people as they take steps to peacefully express their voices, opinions, and aspirations;

(4) supports the Iranian people seeking access to news and other forms of information;

(5) condemns the detainment, imprisonment, and intimidation of all journalists, in Iran and elsewhere throughout the world;

(6) supports journalists who take great risk to report on political events in Iran, including those surrounding the presidential election;

(7) supports the efforts the Voice of America's (VOA) 24-hour television station Persian News Network, and Radio Free Europe / Radio Liberty's (RFE/RL) Radio Farda 24-hour radio station; British Broadcasting Corporation (BBC) Farsi language programming; Radio Zamaneh; and other independent news outlets to provide information to Iran;

(8) condemns acts of censorship, intimidation, and other restrictions on freedom of the press, freedom of speech, and freedom of expression in Iran and throughout the world;

(9) commends companies such as Twitter, Facebook, and YouTube, which have facilitated the ability of the Iranian people to access and share information, and exercise freedom of speech, freedom of expression, and freedom of assembly through alternative technologies; and

(10) condemns companies which have knowingly impeded the ability of the Iranian people to access and share information and exercise freedom of speech, freedom of expression, and freedom of assembly through electronic media, including through the sale of technology that allows for deep packet inspection or provides the capability to monitor or block Internet access, and gather information about individuals.

SEC. 1244. STATEMENT OF POLICY.

It shall be the policy of the United States—

(1) to support freedom of the press, freedom of speech, freedom of expression, and freedom of assembly in Iran;

(2) to support the Iranian people as they seek, receive, and impart information and promote ideas in writing, in print, or through any media without interference;

(3) to discourage businesses from aiding efforts to interfere with the ability of the people of Iran to freely access or share information or otherwise infringe upon freedom of speech, freedom of expression, freedom of assembly, and freedom of the press through the Internet or other electronic media, including through the sale of deep packet inspection or other technology that provides the capability to monitor or block Internet access, and gather information about individuals; and

(4) to encourage the development of technologies, including Internet Web sites that facilitate the efforts of the Iranian people—

(A) to gain access to and share accurate information and exercise freedom of speech, freedom of expression, freedom of assembly, and freedom of the press, through the Internet or other electronic media; and

(B) engage in Internet-based education programs and other exchanges between United States citizens and Iranians.

SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

(a) INTERNATIONAL BROADCASTING OPERATIONS FUND.—In addition to amounts otherwise authorized for the Broadcasting Board of Governors' International Broadcasting Operations Fund, there is authorized to be appropriated $15,000,000 to expand Farsi language programming and to provide for the dissemination of accurate and independent information to the Iranian people through radio, television, Internet, cellular telephone, short message service, and other communications.

(b) BROADCASTING CAPITAL IMPROVEMENTS FUND.—In addition to amounts otherwise authorized for the Broadcasting Board of Governors' Broadcasting Capital Improvements Fund, there is authorized to be appropriated $15,000,000 to expand transmissions of Farsi language programs to Iran.

(c) USE OF AMOUNTS.—In pursuit of the objectives described in subsections (a) and (b), amounts in the International Broadcasting Operations Fund and the Capital Improvements Fund may be used to—

(1) develop additional transmission capability for Radio Farda and the Persian News Network to counter ongoing efforts to jam transmissions, including through additional shortwave and medium wave transmissions, satellite, and Internet mechanisms;

(2) develop additional proxy server capability and anti-censorship software to counter efforts to block Radio Farda and Persian News Network Web sites;

(3) develop technologies to counter efforts to block SMS text message exchange over cellular phone networks;

(4) expand program coverage and analysis by Radio Farda and the Persian News Network, including the development of broadcast platforms and programs, on the television, radio and Internet, for enhanced interactivity with and among the people of Iran;

(5) hire, on a permanent or short-term basis, additional staff for Radio Farda and the Persian News Network; and

(6) develop additional Internet-based, Farsi-language television programming, including a Farsi-language, Internet-based news channel.

SEC. 1246. IRANIAN ELECTRONIC EDUCATION, EXCHANGE, AND MEDIA FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Iranian Electronic Education, Exchange, and Media Fund (referred to in this section as the ''Fund''), consisting of amounts appropriated to the Fund pursuant to subsection (e).

(b) ADMINISTRATION.—The Fund shall be administered by the Secretary of State.

(c) OBJECTIVE.—The objective of the Fund shall be to support the development of technologies, including Internet Web sites, that will aid the ability of the Iranian people to—

(1) gain access to and share information;

(2) exercise freedom of speech, freedom of expression, and freedom of assembly through the Internet and other electronic media;

(3) engage in Internet-based education programs and other exchanges between Americans and Iranians; and

(4) counter efforts—

(A) to block, censor, and monitor the Internet; and

(B) to disrupt or monitor cellular phone networks or SMS text exchanges.

(d) USE OF AMOUNTS.—In pursuit of the objective described in subsection (c), amounts in the Fund may be used for grants to United States or foreign universities, nonprofit organizations, or companies for targeted projects that advance the purpose of the Fund, including projects that—

(1) develop Farsi-language versions of existing social-networking Web sites;

(2) develop technologies, including Internet-based applications, to counter efforts—

(A) to block, censor, and monitor the Internet; and

(B) to disrupt or monitor cellular phone networks or SMS text message exchanges;

(3) develop Internet-based, distance learning programs for Iranian students at United States universities; and

(4) promote Internet-based, people-to-people educational, professional, religious, or cultural exchanges and dialogues between United States citizens and Iranians.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $20,000,000 to the Fund.

SEC. 1247. BIANNUAL REPORT.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit a report to Congress that provides a detailed description of—

(1) United States-funded international broadcasting efforts in Iran;

(2) efforts by the Government of Iran to block broadcasts sponsored by the United States or other non-Iranian entities;

(3) efforts by the Government of Iran to monitor or block Internet access, and gather information about individuals;

(4) plans by the Broadcasting Board of Governors for the use of the amounts appropriated pursuant to section 1245, including—

(A) the identification of specific programs and platforms to be expanded or created; and

(B) satellite, radio, or Internet-based transmission capacity to be expanded or created;

(5) plans for the use of the Iranian Electronic Education, Exchange, and Media Fund;

(6) a detailed breakdown of amounts obligated and disbursed from the Iranian Electronic Media Fund and an assessment of the impact of such amounts;

(7) the percentage of the Iranian population and of Iranian territory reached by shortwave and medium-wave radio broadcasts by Radio Farda and Voice of America;

(8) the Internet traffic from Iran to Radio Farda and Voice of America Web sites; and

(9) the Internet traffic to proxy servers sponsored by the Broadcasting Board of Governors, and the provisioning of surge capacity.

(b) CLASSIFIED ANNEX.—The report submitted under subsection (a) may include a classified annex.

SEC. 1248. REPORT ON ACTIONS BY NON-IRANIAN COMPANIES.

(a) STUDY.—The President shall direct the appropriate officials to examine claims that non-Iranian companies, including corporations with United States subsidiaries, have provided hardware, software, or other forms of assistance to the Government of Iran that has furthered its efforts to—

(1) filter online political content;

(2) disrupt cell phone and Internet communications; and

(3) monitor the online activities of Iranian citizens.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit a report to Congress that contains the results of the study conducted under subsection (a). The report submitted under this subsection shall be submitted in unclassified form, but may include a classified annex.

SEC. 1249. ANNUAL DESIGNATION OF INTERNET-RESTRICTING COUNTRIES.

(a) DESIGNATION.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall designate countries that meet the criteria set forth in paragraph (2) as Internet-restricting countries.

(2) CRITERIA.—A foreign country shall be designated as an Internet -restricting country under this section if the Secretary of State, after consultation with the Secretary of Commerce, determines, based on the review of the evidence and any ongoing multilateral discussions on freedom of speech and the right to privacy, that the government of the country was directly or indirectly responsible for a systematic pattern of substantial restrictions on the unimpeded use of the Internet or other telecommunications technology, such as short message service (SMS), at any time during the preceding 1-year period.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall submit a report to the appropriate congressional committees that includes—

(A) the name of each foreign country that is designated as an Internet-restricting country under subsection (a);

(B) a detailed description of the nature of the restrictions imposed by each Internet-restricting country, including specific technologies and methods used;

(C) the name of each government agency and quasi-government organization responsible for the substantial restrictions on Internet freedom in each Internet-restricting country;

(D) the name of any United States and foreign companies that have provided technology, training, or other assistance to the Internet or telecommunications-restricting effort of any Internet-restricting country, and a detailed description of such assistance and its approximate worth;

(E) a description of efforts by the United States to counter the substantial restrictions on Internet freedom referred to in subparagraph (B); and

(F) a description of the evidence used by the Secretary of State to make the determinations under subsection (a)(2), and any ongoing multilateral discussions on freedom of speech and the right to privacy referred to in such subsection.

(2) CLASSIFIED FORM.—The information required under paragraph (1)(C) may be provided in a classified form if necessary.

(3) PUBLIC AVAILABILITY.—All unclassified portions of the report shall be made publicly available on the Internet Web site of the Department of State.

SEC. 1250. HUMAN RIGHTS DOCUMENTATION.

There are authorized to be appropriated $5,000,000 to the Secretary of State to document, collect, and disseminate information

about human rights in Iran, including abuses of human rights that have taken place since the Iranian presidential election conducted on June 12, 2009.

SA 1713. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 533, between lines 15 and 16, insert the following:

SEC. 707. AUTHORITY TO RELOCATE UNITED STATES MILITARY ACADEMY PREP SCHOOL TO NEW YORK MILITARY ACADEMY, CORNWALL-ON-HUDSON, NEW YORK.

Notwithstanding Recommendation #5 of the 2005 Defense Base Closure and Realignment Commission Report, which recommended the relocation of the United States Military Academy Prep School to West Point, New York, in connection with the closure of Fort Monmouth, New Jersey, the Secretary of Defense may instead relocate the United States Military Academy Prep School to the New York Military Academy, Cornwall-on-Hudson, New York.

SA 1714. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title V, add the following:

SEC. 573. REPORT AND PLAN ON NEEDS FOR CYBERSECURITY PERSONNEL AND TRAINING.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on, and plan to address, the needs of the Department of Defense, over the next five years, for additional personnel with expertise in matters relating to cybersecurity and additional training with respect to such matters.

(b) ELEMENTS OF REPORT.—The report required by subsection (a) shall include an assessment of the following:

(1) The availability to the Department of Defense of personnel with expertise in matters relating to cybersecurity from outside of the Department.

(2) Any obstacles to the recruitment by the Department of personnel with expertise in matters relating to cybersecurity, including an insufficient number of individuals with such expertise outside of the Department.

(3) The sufficiency of training and expertise of personnel within the Department on matters relating to cybersecurity.

(4) The career path for personnel with expertise in matters relating to cybersecurity, including the use of specialty codes and the existing training structures within the Department of Defense.

(c) ELEMENTS OF PLAN.—The plan required by subsection (a) shall address the following:

(1) The extent to which the Department of Defense will rely on private contractors to meet the needs of the Department with respect to personnel with expertise in matters relating to cybersecurity and the measures that will be employed to ensure effective information-sharing and information security if the Department will use such contractors.

(2) Efforts to establish public-private partnerships to meet the needs of the Department with respect to personnel with expertise in matters relating to cybersecurity and training with respect to such matters.

(3) The role of civilian employees of the Department of Defense with respect to matters relating to cybersecurity and how such employees could be used to meet the needs of the Armed Forces on such matters.

(4) Efforts to coordinate and pool resources with respect to matters relating to cybersecurity with other Federal agencies, particularly the Department of Homeland Security.

(5) Measures to improve training with respect to matters relating to cybersecurity within the Department of Defense, including the development of new specialty codes and career tracks for cybersecurity personnel.

(6) Recommendations for legislative changes necessary to increase the availability of personnel with expertise in matters relating to cybersecurity and interest in programs of the Department of Defense relating to cybersecurity.

SA 1715. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VII, add the following:

SEC. 706. TREATMENT OF AUTISM UNDER THE TRICARE PROGRAM.

(a) IN GENERAL.—Section 1079 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

''(18) In accordance with subsection (r), treatment for autism spectrum disorders shall be made available to dependents who are diagnosed with autism spectrum disorders.''; and

(2) by adding at the end the following new subsection:

''(r)(1) For purposes of subsection (a)(18), treatment for an autism spectrum disorder may include the use of applied behavior analysis or other structured behavior programs, as the Secretary determines appropriate.

''(2) The Secretary may not consider the use of applied behavior analysis or other structured behavior programs under this section to be special education for purposes of subsection (a)(9).

''(3) In carrying out this subsection, the Secretary shall ensure that—

''(A) a person who is authorized to provide applied behavior analysis or other structured behavior programs is licensed or certified by a State, the Behavior Analyst Certification Board, or other accredited national certification board; and

''(B) if applied behavior analysis or other structured behavior program is provided by an employee or contractor of a person authorized to provide such treatment, the employee or contractor shall meet minimum qualifications, training, and supervision requirements consistent with business best practices in the field of behavior analysis and autism services and in accordance with regulations prescribed by the Secretary.

''(4) In this section, the term 'autism spectrum disorders' includes autistic disorder, Asperger's syndrome, and any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.''.

(b) REGULATIONS.—Not later than 180 days after the enactment of this Act, the Secretary of Defense shall prescribe such regulations as may be necessary to carry out subsections (a)(18) and (r) of section 1079 of title 10, United States Code, as added by subsection (a) of this section.

(c) REPORT REQUIRED.—The Secretary of Defense shall provide a report to the Committees on Armed Services of the Senate and the House of Representatives no later than 180 days after implementation of section (a) on the implementation of such section and its effect on access to and quality of ABA services for eligible military families and their autistic dependents.

(d) APPLICABILITY TO OTHER PROVISIONS.—Nothing in this section shall be construed to alter or affect the requirement under section 553 of this Act to develop and implement a policy for the support of military children with autism and their families.

SA 1716. Mr. LEAHY (for himself, Mr. BINGAMAN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 483, between lines 8 and 9, insert the following:

SEC. 1232. ASSISTANCE TO CIVILIANS FOR LOSSES INCIDENT TO COMBAT ACTIVITIES OF THE ARMED FORCES IN OVERSEAS CONTINGENCY OPERATIONS.

(a) DETERMINATION OF ASSISTANCE.—

(1) IN GENERAL.—To promote and maintain friendly relations through the prompt administration of assistance to civilian casualties, the Secretary concerned, or an officer or employee designated by the Secretary, may appoint, under such regulations as the Secretary may prescribe, local military commanders to provide monetary assistance in an amount appropriate for the loss suffered for—

(A) damage to, or loss of, real property of any inhabitant of a foreign country, including damage or loss incident to use and occupancy;

(B) damage to, or loss of, personal property of any inhabitant of a foreign country; or

(C) personal injury to, or death of, any inhabitant of a foreign country;

if the damage, loss, personal injury, or death occurs outside the United States, or the Commonwealths or possessions, and is caused by, or is otherwise incident to, combat activities in foreign contingency operations of the Armed Forces under the local military commander's command, or is caused by a member thereof or by a civilian employee of the military department concerned or the Coast Guard, as the case may be. A commander will provide assistance under regulations of the Department of Defense.

(2) CONDITIONS.—Assistance authorized by this section may be allowed only if—

(A) an application therefor is presented within two years after the occurrence of the incident concerned;

(B) the applicant is determined by the local military commander to be friendly to the United States;

(C) the incident results directly or indirectly from an act of the Armed Forces in combat, an act of the Armed Forces indirectly related to combat, or an act of the Armed Forces occurring while preparing for, going to, or returning from a combat mission; and

(D) the incident does not arise directly from action by an enemy, unless the local military commander determines that it in the best military interest to offer assistance in such case.

(b) TYPE OF ASSISTANCE.—Satisfaction under this section shall be made through payment in local currency when possible. However, satisfaction under this section may be made through the provision of services or in-kind compensation if such satisfaction is considered appropriate by the legal advisor and the local military commander concerned and accepted by the applicant.

(c) LEGAL ADVICE REQUIREMENT.—Local military commanders shall receive legal advice before authorizing assistance. The legal advisor, under regulations of the Department of Defense, shall determine whether the applicant for assistance is properly an applicant, whether the facts support the provision of assistance, and what amount is appropriate for the loss suffered. The legal advisor shall then make a recommendation to the local military commander who will determine if assistance is to be provided.

(d) CONSIDERATION OF APPLICATIONS.—Any application appropriately made for assistance resulting from United States military operations will be considered on the merits. If assistance is not offered or provided to an applicant, documentation of the denial shall be maintained by the Department of Defense. The applicant should be informed of any decision made by a commander in a timely manner.

(e) DESIGNATION OF ASSISTANCE PROVIDERS.—The Secretary of Defense may designate any local military commander appointed under subsection (a) to provide assistance for damage, loss, injury, or death caused by a civilian employee of the Department of Defense other than an employee of a military department.

(f) TREATMENT OF OTHER COMPENSATION RECEIVED.—In the event compensation for damage, loss, injury, or death covered by this section is received through a separate program operated by the United States Government, receipt of compensation in such amount may be considered by the legal advisor or commander determining the appropriate assistance under subsection (a).

(g) REPORTING.—

(1) RECORDS OF APPLICATIONS FOR ASSISTANCE.—A written record of any assistance offered or denied will be kept by the local commander and on a timely basis submitted to the appropriate office in the Department of Defense as determined by the Secretary of Defense.

(2) BIANNUAL REPORT.—The Secretary of Defense shall report to Congress on a biannual basis the efficacy of the civilian assistance program, including the number of cases considered, amounts offered, and any necessary adjustments.

SA 1717. Mr. FRANKEN (for himself, Mr. ISAKSON, Ms. LANDRIEU, Mr. GRAHAM, Mr. BROWN, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title X, add the following:

SEC. 1083. PILOT PROGRAM ON USE OF SERVICE DOGS FOR THE TREATMENT OR REHABILITATION OF VETERANS WITH PHYSICAL OR MENTAL INJURIES OR DISABILITIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States owes a profound debt to those who have served the United States honorably in the Armed Forces.

(2) Disabled veterans suffer from a range of physical and mental injuries and disabilities.

(3) In 2008, the Army reported the highest level of suicides among its soldiers since it began tracking the rate 28 years before 2009.

(4) A scientific study documented in the 2008 Rand Report entitled ''Invisible Wounds of War'' estimated that 300,000 veterans of Operation Enduring Freedom and Operation Iraqi Freedom currently suffer from post-traumatic stress disorder.

(5) Veterans have benefitted in multiple ways from the provision of service dogs.

(6) The Department of Veterans Affairs has been successfully placing guide dogs with the blind since 1961.

(7) Thousands of dogs around the country await adoption.

(b) PROGRAM REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall commence a three-year pilot program to assess the benefits, feasibility, and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities, including post-traumatic stress disorder.

(c) PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary shall carry out the pilot program by partnering with nonprofit organizations that—

(A) have experience providing service dogs to individuals with injuries or disabilities;

(B) do not charge fees for the dogs, services, or lodging that they provide; and

(C) are accredited by a generally accepted industry-standard accrediting institution.

(2) REIMBURSEMENT OF COSTS.—The Secretary shall reimburse partners for costs relating to the pilot program as follows:

(A) For the first 50 dogs provided under the pilot program, all costs relating to the provision of such dogs.

(B) For dogs provided under the pilot program after the first 50 dogs provided, all costs relating to the provision of every other dog.

(d) PARTICIPATION.—

(1) IN GENERAL.—As part of the pilot program, the Secretary shall provide a service dog to a number of veterans with physical or mental injuries or disabilities that is greater than or equal to the greater of—

(A) 200; and

(B) the minimum number of such veterans required to produce scientifically valid results with respect to assessing the benefits and costs of the use of such dogs for the treatment or rehabilitation of such veterans.

(2) COMPOSITION.—The Secretary shall ensure that—

(A) half of the participants in the pilot program are veterans who suffer primarily from a mental health injury or disability; and

(B) half of the participants in the pilot program are veterans who suffer primarily from a physical injury or disability.

(e) STUDY.—In carrying out the pilot program, the Secretary shall conduct a scientifically valid research study of the costs and benefits associated with the use of service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities. The matters studied shall include the following:

(1) The therapeutic benefits to such veterans, including the quality of life benefits reported by the veterans partaking in the pilot program.

(2) The economic benefits of using service dogs for the treatment or rehabilitation of such veterans, including—

(A) savings on health care costs, including savings relating to reductions in hospitalization and reductions in the use of prescription drugs; and

(B) productivity and employment gains for the veterans.

(3) The effectiveness of using service dogs to prevent suicide.

(f) REPORTS.—

(1) ANNUAL REPORT OF THE SECRETARY.—After each year of the pilot program, the Secretary shall submit to Congress a report on the findings of the Secretary with respect to the pilot program.

(2) FINAL REPORT BY THE NATIONAL ACADEMY OF SCIENCES.—Not later than 180 days after the date of the completion of the pilot program, the National Academy of Sciences shall submit to Congress a report on the results of the pilot program.

SA 1718. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 475, between lines 2 and 3, insert the following:

SEC. 1211. AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF IRAQ AND AFGHANISTAN.

(a) AUTHORITY.—The President is authorized to transfer defense articles from the stocks of the Department of Defense, and to provide defense services in connection with the transfer of such defense articles, to—

(1) the military and security forces of Iraq to support the efforts of those forces to restore and maintain peace and security in that country; and

(2) the military and security forces of Afghanistan to support the efforts of those forces to restore and maintain peace and security in that country.

(b) LIMITATIONS.—

(1) VALUE.—The aggregate replacement value of all defense articles transferred and defense services provided under subsection (a) may not exceed $500,000,000.

(2) SOURCE OF TRANSFERRED DEFENSE ARTICLES.—The authority under subsection (a) may only be used for defense articles that—

(A) immediately before the transfer were in use to support operations in Iraq;

(B) were present in Iraq as of the date of enactment of this Act; and

(C) are no longer required by United States forces in Iraq.

(c) APPLICABLE LAW.—Any defense articles transferred or defense services provided to

Iraq or Afghanistan under the authority of subsection (a) shall be subject to the authorities and limitations applicable to excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), other than the authorities and limitations contained in subsections (b)(1)(B), (e), (f), and (g) of such section.

(d) REPORT.—

(1) IN GENERAL.—The President may not exercise the authority under subsection (a) until 30 days after the Secretary of Defense, with the concurrence of the Secretary of State, provides the appropriate congressional committees a report on the plan for the disposition of equipment and other property of the Department of Defense in Iraq.

(2) ELEMENTS OF REPORT.—The report required under paragraph (1) shall include the following elements:

(A) An assessment of—

(i) the types and quantities of defense articles required by the military and security forces of Iraq to support the efforts of those military and security forces to restore and maintain peace and security in Iraq; and

(ii) the types and quantities of defense articles required by the military and security forces of Afghanistan to support the efforts of those military and security forces to restore and maintain peace and security in Afghanistan.

(B) A description of the authorities available for addressing the requirements identified in subparagraph (A).

(C) A description of the process for inventorying equipment and property, including defense articles, in Iraq owned by the Department of Defense, including equipment and property owned by the Department of Defense and under the control of contractors in Iraq.

(D) A description of the types of defense articles that the Department of Defense intends to transfer to the military and security forces of Iraq and an estimate of the quantity of such defense articles to be transferred.

(E) A description of the process by which potential requirements for defense articles to be transferred under the authority provided in subsection (a), other than the requirements of the security forces of Iraq or Afghanistan, are identified and the mechanism for resolving any potential conflicting requirements for such defense articles.

(F) A description of the plan, if any, for reimbursing military departments from which non-excess defense articles are transferred under the authority provided in subsection (a).

(G) An assessment of the efforts by the Government of Iraq to identify the requirements of the military and security forces of Iraq for defense articles to support the efforts of those forces to restore and maintain peace and security in that country.

(H) An assessment of the ability of the Governments of Iraq and Afghanistan to absorb the costs associated with possessing and using the defense articles to be transferred.

(I) A description of the steps taken by the Government of Iraq to procure or acquire defense articles to meet the requirements of the military and security forces of Iraq, including through military sales from the United States.

(e) NOTIFICATION.—

(1) IN GENERAL.—The President may not transfer defense articles or provide defense services under subsection (a) until 15 days after the date on which the President has provided notice of the proposed transfer of defense articles or provision of defense services to the appropriate congressional committees.

(2) CONTENTS.—Such notification shall include—

(A) a description of the amount and type of each defense article to be transferred or defense services to be provided;

(B) a statement describing the current value of such article and the estimated replacement value of such article;

(C) an identification of the military department from which the defense articles being transferred are drawn;

(D) an identification of the element of the military or security force that is the proposed recipient of each defense article to be transferred or defense service to be provided;

(E) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

(F) a certification by the President that—

(i) the Secretary of Defense has determined that—

(I) the defense articles to be transferred are no longer required by United States forces in Iraq;

(II) the proposed transfer of such defense articles will not adversely impact the military preparedness of the United States;

(III) immediately before the transfer, the defense articles to be transferred were being used to support operations in Iraq;

(IV) the defense articles to be transferred were present in Iraq as of the date of enactment of this Act; and

(V) the defense articles to be transferred are required by the military and security forces of Iraq or the military and security forces of Afghanistan, as applicable, to build their capacity to restore and maintain peace and security in their country;

(ii) the government of the recipient country has agreed to accept and take possession of the defense articles to be transferred and to receive the defense services in connection with that transfer; and

(iii) the proposed transfer of such defense articles and the provision of defense services in connection with such transfer is in the national interest of the United States.

(f) QUARTERLY REPORT.—Not later than 90 days after the date of the report provided under subsection (d), and every 90 days thereafter during fiscal year 2010, the Secretary of Defense shall report to the appropriate congressional committees on the implementation of the authority under subsection (a). The report shall include the replacement value of defense articles transferred pursuant to subsection (a), both in the aggregate and by military department, and services provided to Iraq and Afghanistan during the previous 90 days.

(g) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(2) DEFENSE ARTICLES.—The term ''defense articles'' has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

(3) DEFENSE SERVICES.—The term ''defense services'' has the meaning given the term in section 644(f) of such Act (22 U.S.C. 2403(f)).

(4) MILITARY AND SECURITY FORCES.—The term ''military and security forces'' means national armies, national air forces, national navies, national guard forces, police forces and border security forces, but does not include non-governmental or irregular forces (such as private militias).

(h) EXPIRATION.—The authority provided under subsection (a) may not be exercised after September 30, 2010.

(i) EXCESS DEFENSE ARTICLES.—

(1) ADDITIONAL AUTHORITY.—The authority provided by subsection (a) is in addition to the authority provided by Section 516 of the Foreign Assistance Act of 1961.

(2) AGGREGATE VALUE.—The value of excess defense articles transferred to Iraq during fiscal year 2010 pursuant to Section 516 of the Foreign Assistance Act of 1961 shall not be counted against the limitation on the aggregate value of excess defense articles transferred contained in subsection (g) of such Act.

SA 1719. Mr. PRYOR (for himself and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ENHANCED REPORTING ON THE USE OF TARP FUNDS.

Section 105 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5215(a)) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) a detailed report on the use of capital investments by each financial institution, including—

''(A) a narrative response, in a form and on a date to be established by the Secretary, specifically outlining, with respect to the financial institution—

''(i) the original intended use of the TARP funds;

''(ii) whether the TARP funds are segregated from other institutional funds;

''(iii) the actual use of the TARP funds to date;

''(iv) the amount of TARP funds retained for the purpose of recapitalization; and

''(v) the expected use of the remainder of the TARP funds;

''(B) information compiled by the Secretary under subsection (b); and

''(C) a report, in a form and on a date to be established by the Secretary, on the compliance by the financial institution with the restrictions on dividends, stock repurchases, and executive compensation under the Security Purchase Agreement and executive compensation guidelines of the Department of Treasury.'';

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(3) by inserting after subsection (a) the following:

''(b) INFORMATION PROVIDED BY FINANCIAL INSTITUTIONS.—

''(1) IN GENERAL.—For purposes of the report of the Secretary required by subsection (a)(4), financial institutions assisted under this title shall provide to the Secretary the information required by paragraph (2), at such times and in such manner as the Secretary shall establish.

''(2) INFORMATION REQUIRED.—Information required by this paragraph is—

''(A) for those financial institutions receiving $1,000,000,000 or more from the Capital

Purchase Program established by the Secretary (or any successor thereto), a monthly lending and intermediation snapshot, as of a date to be established by the Secretary, which shall include—

''(i) quantitative information, as well as commentary, to explain changes in lending levels for each category on consumer lending, including first mortgages, home equity lines of credit, open end credit plans (as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), and other consumer lending;

''(ii) quantitative information, as well as commentary, to explain changes in lending levels for each category on commercial lending, including commercial and industrial (C&I) lending and real estate;

''(iii) quantitative information, as well as commentary, to explain changes in lending levels for each category on other lending activities, including mortgage-backed securities, asset-backed securities, and other secured lending; and

''(iv) a narrative report of the intermediation activity during the reporting period, including a general commentary on the lending environment, loan demand, any changes in lending standards and terms, and any other intermediation activity; and

''(B) for those financial institutions receiving less than $1,000,000,000 from the Capital Purchase Program established by the Secretary (or any successor thereto), a lending and intermediation snapshot, as of a date to be established by the Secretary, but not more frequently than once every 90 days, including the information described in clauses (i) through (iv) of subparagraph (A).

''(3) CERTIFICATION REQUIRED.—The information submitted to the Secretary under this subsection shall be signed by a duly authorized senior executive officer of the financial institution, including a statement certifying the accuracy of all statements, representations, and supporting information provided, and such certifications shall be included in the reports submitted by the Secretary under subsection (a)(4).''.

SA 1720. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 226, strike line 17 and all that follows through page 228, line 10, and insert the following:

SEC. 724. INSTITUTE OF MEDICINE STUDY ON MANAGEMENT OF MEDICATIONS FOR PHYSICALLY AND PSYCHOLOGICALLY WOUNDED MEMBERS OF THE ARMED FORCES.

(a) STUDY REQUIRED.—The Secretary of Defense shall enter into an agreement with the Institute of Medicine of the National Academy of Sciences to conduct a study on the management of medications for physically and psychologically wounded members of the Armed Forces.

(b) ELEMENTS.—The study required under subsection (a) shall include the following:

(1) A review and assessment of current practices within the Department of Defense for the management of medications for physically and psychologically wounded members of the Armed Forces.

(2) A review and analysis of the published literature on factors contributing to the risk of misadministration of medications, including accidental and intentional overdoses, under- and over- medication, and adverse interactions among medications.

(3) An identification of the medical conditions, and of the patient management procedures of the Department of Defense, that may increase the risks of misadministration of medications in populations of members of the Armed Forces.

(4) An assessment of current and best practices in the Armed Forces, other departments and agencies of government, and the private sector concerning the prescription, distribution, and management of medications, and the associated coordination of care.

(5) An identification of means for decreasing the risks of misadministration of medications and associated problems with respect to physically and psychologically wounded members of the Armed Forces.

(c) REPORT.—Not later than 18 months after entering into the agreement for the study required under subsection (a), the Institute of Medicine shall submit to the Secretary of Defense and Congress a report on the study, including such findings and determinations as the Institute of Medicine considers appropriate in light of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 1403 for the Defense Health Program is hereby increased by $1,000,000, with the amount of the increase to be allocated for the study required under subsection (a).

(2) OFFSET.—The aggregate amount authorized to be appropriated by this Act, other than the amount authorized to be appropriated by section 1403, is hereby reduced by $1,000,000, with the amount of such reduction to be allocated on a pro rata basis.

SA 1721. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title X, add the following:

SEC. 1083. ESTABLISHMENT OF REGISTRIES OF MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES EXPOSED IN LINE OF DUTY TO OCCUPATIONAL AND ENVIRONMENTAL HEALTH CHEMICAL HAZARDS.

(a) ESTABLISHMENT.—For each occupational and environmental health chemical hazard of particular concern, the Secretary of Defense shall establish and administer a registry of members and former members of the Armed Forces who were exposed in the line of duty to such hazard on or after September 11, 2001.

(b) REGISTRATION.—For every member and former member of the Armed Forces who was exposed in the line of duty to a hazard described in subsection (a), the Secretary shall—

(1) register such member or former member in such registry; and

(2) collect such information about such member or former member as the Secretary considers appropriate for purposes of establishing and administering such registry.

(c) NOTIFICATION.—In the case that the Secretary learns that a member or former member of the Armed Forces may have been exposed in the line of duty to a hazard described in subsection (a), the Secretary shall—

(1) notify of such exposure—

(A) such member or former member;

(B) the commanding officer of the unit to which such member or former member belonged at the time of such exposure; and

(C) in the case of a member of the National Guard, the Adjutant General of the State concerned; and

(2) inform such member or former member that such member or former member may be included in the registry required by subsection (a) for such hazard.

(d) EXAMINATION.—Not later than 30 days after the date on which the Secretary becomes aware of an exposure of a member or former member of the Armed Forces to a hazard described in subsection (a) and annually thereafter, the Secretary shall provide such member or former member—

(1) a complete physical and medical examination;

(2) consultation and counseling with respect to the results of such physical and examination; and

(3) a copy of the documentation of such exposure in the member's or former member's medical record maintained by the Department of Defense.

(e) OCCUPATIONAL AND ENVIRONMENTAL HEALTH CHEMICAL HAZARD OF PARTICULAR CONCERN DEFINED.—In this section, the term ''occupational and environmental health chemical hazard of particular concern'' means an occupational and environmental health chemical hazard that the Secretary of Defense determines is of particular concern after considering appropriate guidelines and standards for exposure, including the following:

(1) The military exposure guidelines specified in the January 2002 Chemical Exposure Guidelines for Deployed Military Personnel, United States Army Center for Health Promotion and Preventive Medicine Technical Guide 230 (or any successor technical guide that establishes military exposure guidelines for the assessment of the significance of field exposures to occupational and environmental health chemical hazards during deployments).

(2) Occupational and environmental health chemical exposure standards promulgated by the Occupational Safety and Health Administration.

SEC. 1084. SCIENTIFIC REVIEW OF ASSOCIATION OF INCIDENTS OF EXPOSURE TO OCCUPATIONAL AND ENVIRONMENTAL HEALTH CHEMICAL HAZARDS WITH HEALTH CONSEQUENCES.

(a) AGREEMENT.—

(1) IN GENERAL.—The Secretary of Defense shall seek to enter into an agreement with the Institute of Medicine of the National Academies for the Institute of Medicine to perform the services covered by this section.

(2) TIMING.—The Secretary shall seek to enter into the agreement described in paragraph (1) not later than two months after the date of the enactment of this Act.

(b) REVIEW OF SCIENTIFIC EVIDENCE.—Under an agreement between the Secretary of Defense and the Institute of Medicine under this section, the Institute of Medicine shall, for each incident of exposure involving one or more members of the Armed Forces reported in a registry established under section 1083(a) to an occupational and environmental health chemical hazard of particular concern, review and summarize the scientific evidence, and assess the strength thereof, concerning the association between the exposure to such hazard and acute and long-term health consequences of such exposure.

(c) SCIENTIFIC DETERMINATIONS CONCERNING HEALTH CONSEQUENCES.—

(1) IN GENERAL.—For each incident of exposure reviewed under subsection (b), the Institute of Medicine shall determine (to the extent that available scientific data permit meaningful determinations)—

(A) whether a statistical association with the acute and long-term health consequences exists, taking into account the strength of the scientific evidence and the appropriateness of the statistical and epidemiological methods used to detect the association; and

(B) whether there exists a plausible biological mechanism or other evidence of a causal relationship between the occupational and environmental health chemical hazard and the health consequences.

(2) DISCUSSION AND REASONING.—The Institute of Medicine shall include in its reports under subsection (f) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(d) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—

(1) IN GENERAL.—The Institute of Medicine shall make any recommendations it has for additional scientific studies to resolve areas of continuing scientific uncertainty relating to exposure to occupational and environmental health chemical hazards of particular concern.

(2) CONSIDERATIONS.—In making recommendations for further study, the Institute of Medicine shall consider the following:

(A) The scientific information that is currently available.

(B) The value and relevance of the information that could result from additional studies.

(e) SUBSEQUENT REVIEWS.—The agreement under subsection (a) shall require the Institute of Medicine—

(1) to conduct periodically as comprehensive a review as is practicable of the evidence referred to in subsection (b) that has become available since the last review of such evidence under this section; and

(2) to make its determinations and estimates on the basis of the results of such review and all other reviews conducted for the purposes of this section.

(f) REPORTS.—

(1) REPORTS TO CONGRESS.—

(A) IN GENERAL.—The agreement under subsection (a) shall require the Institute of Medicine to submit, not later than the end of the 18-month period beginning on the date of the enactment of this Act and not less frequently than once every two years thereafter, to the appropriate committees of Congress a report on the activities of the Institute of Medicine under the agreement.

(B) CONTENTS.—The report described in subparagraph (A) shall include the following:

(i) The determinations and discussion referred to in subsection (c).

(ii) Any recommendations of the Institute of Medicine under subsection (d).

(2) REPORTS TO SECRETARY OF DEFENSE.—The agreement under subsection (a) shall require the Institute of Medicine, in the case that the Institute of Medicine makes any conclusive determination under subsection (c)(1) with respect to any incident of exposure studied under subsection (b), to submit, not later than 30 days after the date of such determination, to the Secretary of Defense a report describing such determination.

(g) NOTICE TO MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall notify members and former members of the Armed Forces listed in a registry established under section 1083(a) for exposure to an occupational and environmental health chemical hazard of particular concern of—

(1) any conclusive determinations made with respect to such exposure under subsection (c)(1); and

(2) any other significant developments in research on the health consequences of exposure to such hazard.

(h) LIMITATION ON AUTHORITY.—The agreement under this section shall be effective for a fiscal year to the extent that appropriations are available to carry out the agreement.

(i) SUNSET.—This section shall cease to be effective 10 years after the last day of the fiscal year in which the Institute of Medicine submits to the Secretary of Defense the first report under subsection (f).

(j) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—

(1) IN GENERAL.—If the Secretary of Defense is unable within the time period prescribed in subsection (a)(2) to enter into an agreement described in subsection (a)(1) with the Institute of Medicine on terms acceptable to the Secretary, the Secretary shall seek to enter into such an agreement with another appropriate scientific organization that—

(A) is not part of the Government;

(B) operates as a not-for-profit entity; and

(C) has expertise and objectivity comparable to that of the Institute of Medicine.

(2) TREATMENT.—If the Secretary enters into an agreement with another organization as described in paragraph (1), any reference in this section to the Institute of Medicine shall be treated as a reference to the other organization.

(k) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Armed Services, the Committee on Veterans' Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Veterans' Affairs, and the Committee on Appropriations of the House of Representatives.

(2) OCCUPATIONAL AND ENVIRONMENTAL HEALTH CHEMICAL HAZARD OF PARTICULAR CONCERN.—The term ''occupational and environmental health chemical hazard of particular concern'' means an occupational and environmental health chemical hazard that the Secretary of Defense determines is of particular concern after considering appropriate guidelines and standards for exposure, including the following:

(A) The military exposure guidelines specified in the January 2002 Chemical Exposure Guidelines for Deployed Military Personnel, United States Army Center for Health Promotion and Preventive Medicine Technical Guide 230 (or any successor technical guide that establishes military exposure guidelines for the assessment of the significance of field exposures to occupational and environmental health chemical hazards during deployments).

(B) Occupational and environmental health chemical exposure standards promulgated by the Occupational Safety and Health Administration.

SEC. 1085. OFFSET.

The total amount authorized to be appropriated for the Department of Defense by divisions A and B is hereby decreased by $6,000,000.

SA 1722. Mr. BAYH (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 731 and insert the following:

SEC. 731. PILOT PROGRAM FOR THE PROVISION OF COGNITIVE REHABILITATIVE THERAPY SERVICES UNDER THE TRICARE PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the entities and officials referred to in subsection (d), carry out a pilot program under the TRICARE program to determine the feasibility and advisability of expanding the availability of cognitive rehabilitative therapy services for members or former members of the Armed Forces described in subsection (b).

(b) COVERED MEMBERS AND FORMER MEMBERS.—A member or former member of the Armed Forces is described in this subsection if the member or former member—

(1) has been diagnosed with a moderate to severe traumatic brain injury incurred in the line of duty in Operation Iraqi Freedom or Operation Enduring Freedom;

(2) is retired or separated from the Armed Forces for disability under chapter 61 of title 10, United States Code; and

(3) is referred by a qualified physician for cognitive rehabilitative therapy.

(c) ELEMENTS OF PILOT PROGRAM.—The Secretary of Defense shall, in consultation with the entities and officials referred to in subsection (d), develop for inclusion in the pilot program the following:

(1) Procedures for access to cognitive rehabilitative therapy services.

(2) Qualifications and supervisory requirements for licensed and certified health care professionals providing such services.

(3) A methodology for reimbursing providers for such services.

(d) ENTITIES AND OFFICIALS TO BE CONSULTED.—The entities and officials referred to in this subsection are the following:

(1) The Secretary of Veterans Affairs.

(2) The Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury.

(3) Relevant national organizations with experience in treating traumatic brain injury.

(e) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report—

(1) evaluating the effectiveness of the pilot project in providing increased access to safe, effective, and quality cognitive rehabilitative therapy services for members and former members of the Armed Forces described in subsection (b); and

(2) making recommendations with respect to the effectiveness of cognitive rehabilitative therapy services and the appropriateness of including such services as a benefit under the TRICARE program.

(f) TRICARE PROGRAM DEFINED.—The term ''TRICARE program'' has the meaning given that term in section 1072(7) of title 10, United States Code.

''Of the amounts appropriated for the defense health programs in FY 2010, $5 million shall be available for this pilot''.

SA 1723. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe

military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, after line 20, add the following:

SEC. 2832. LAND CONVEYANCE, PUEBLO ARMY DEPOT, COLORADO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Pueblo Depot Development Authority, all right, title, and interest of the United States to a parcel of real property, including improvements thereon, consisting of approximately 3,000 acres located at the Pueblo Army Depot in Pueblo, Colorado, for the purposes of developing, constructing, and operating a large utility-scale renewable energy generating facility.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Pueblo Depot Development Authority to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Pueblo Depot Development Authority in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Pueblo Depot Development Authority.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SA 1724. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, after line 20, add the following:

SEC. 2832. LAND CONVEYANCE, PUEBLO ARMY DEPOT, COLORADO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Pueblo Depot Development Authority, all right, title, and interest of the United States to a parcel of real property, including improvements thereon, consisting of approximately 3,000 acres located at the Pueblo Army Depot in Pueblo, Colorado, for the purposes of developing, constructing, and operating a large utility-scale renewable energy generating facility.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Pueblo Depot Development Authority shall pay to the Secretary an amount equal to the fair market value of the property, as determined by the Secretary. The determination of the Secretary shall be final.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Pueblo Depot Development Authority to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Pueblo Depot Development Authority in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Pueblo Depot Development Authority.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SA 1725. Mr. SCHUMER (for himself, Mr. JOHANNS, Mr. WHITEHOUSE, Mr. DEMINT, Mr. COBURN, Mr. LUGAR, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 166, before line 18, insert the following:

Subtitle H—Military Voting

SEC. 581. SHORT TITLE.

This subtitle may be cited as the ''Military and Overseas Voter Empowerment Act''.

SEC. 582. FINDINGS.

Congress makes the following findings:

(1) The right to vote is a fundamental right.

(2) Due to logistical, geographical, operational and environmental barriers, military and overseas voters are burdened by many obstacles that impact their right to vote and register to vote, the most critical of which include problems transmitting balloting materials and not being given enough time to vote.

(3) States play an essential role in facilitating the ability of military and overseas voters to register to vote and have their ballots cast and counted, especially with respect to timing and improvement of absentee voter registration and absentee ballot procedures.

(4) The Department of Defense educates military and overseas voters of their rights under the Uniformed and Overseas Citizens Absentee Voting Act and plays an indispensable role in facilitating the procedural channels that allow military and overseas voters to have their votes count.

(5) The local, State, and Federal Government entities involved with getting ballots to military and overseas voters must work in conjunction to provide voter registration services and balloting materials in a secure and expeditious manner.

SEC. 583. CLARIFICATION REGARDING DELEGATION OF STATE RESPONSIBILITIES.

A State may delegate its responsibilities in carrying out the requirements under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) imposed as a result of the provisions of and amendments made by this Act to jurisdictions of the State.

SEC. 584. ESTABLISHMENT OF PROCEDURES FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS TO REQUEST AND FOR STATES TO SEND VOTER REGISTRATION APPLICATIONS AND ABSENTEE BALLOT APPLICATIONS BY MAIL AND ELECTRONICALLY.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(6) in addition to any other method of registering to vote or applying for an absentee ballot in the State, establish procedures—

''(A) for absent uniformed services voters and overseas voters to request by mail and electronically voter registration applications and absentee ballot applications with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (e);

''(B) for States to send by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas

voter under subparagraph (C)) voter registration applications and absentee ballot applications requested under subparagraph (A) in accordance with subsection (e); and

''(C) by which the absent uniformed services voter or overseas voter can designate whether they prefer for such voter registration application or absentee ballot application to be transmitted by mail or electronically.''; and

(2) by adding at the end the following new subsection:

''(e) DESIGNATION OF MEANS OF ELECTRONIC COMMUNICATION FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS TO REQUEST AND FOR STATES TO SEND VOTER REGISTRATION APPLICATIONS AND ABSENTEE BALLOT APPLICATIONS, AND FOR OTHER PURPOSES RELATED TO VOTING INFORMATION.—

''(1) IN GENERAL.—Each State shall, in addition to the designation of a single State office under subsection (b), designate not less than 1 means of electronic communication—

''(A) for use by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State to request voter registration applications and absentee ballot applications under subsection (a)(6);

''(B) for use by States to send voter registration applications and absentee ballot applications requested under such subsection; and

''(C) for the purpose of providing related voting, balloting, and election information to absent uniformed services voters and overseas voters.

''(2) CLARIFICATION REGARDING PROVISION OF MULTIPLE MEANS OF ELECTRONIC COMMUNICATION.—A State may, in addition to the means of electronic communication so designated, provide multiple means of electronic communication to absent uniformed services voters and overseas voters, including a means of electronic communication for the appropriate jurisdiction of the State.

''(3) INCLUSION OF DESIGNATED MEANS OF ELECTRONIC COMMUNICATION WITH INFORMATIONAL AND INSTRUCTIONAL MATERIALS THAT ACCOMPANY BALLOTING MATERIALS.—Each State shall include a means of electronic communication so designated with all informational and instructional materials that accompany balloting materials sent by the State to absent uniformed services voters and overseas voters.

''(4) AVAILABILITY AND MAINTENANCE OF ONLINE REPOSITORY OF STATE CONTACT INFORMATION.—The Federal Voting Assistance Program of the Department of Defense shall maintain and make available to the public an online repository of State contact information with respect to elections for Federal office, including the single State office designated under subsection (b) and the means of electronic communication designated under paragraph (1), to be used by absent uniformed services voters and overseas voters as a resource to send voter registration applications and absentee ballot applications to the appropriate jurisdiction in the State.

''(5) TRANSMISSION IF NO PREFERENCE INDICATED.—In the case where an absent uniformed services voter or overseas voter does not designate a preference under subsection (a)(6)(C), the State shall transmit the voter registration application or absentee ballot application by any delivery method allowable in accordance with applicable State law, or if there is no applicable State law, by mail.

''(6) SECURITY AND PRIVACY PROTECTIONS.—

''(A) SECURITY PROTECTIONS.—To the extent practicable, States shall ensure that the procedures established under subsection (a)(6) protect the security and integrity of the voter registration and absentee ballot application request processes.

''(B) PRIVACY PROTECTIONS.—To the extent practicable, the procedures established under subsection (a)(6) shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter who requests or is sent a voter registration application or absentee ballot application under such subsection is protected throughout the process of making such request or being sent such application.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 585. ESTABLISHMENT OF PROCEDURES FOR STATES TO TRANSMIT BLANK ABSENTEE BALLOTS BY MAIL AND ELECTRONICALLY TO ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 584, is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(7) in addition to any other method of transmitting blank absentee ballots in the State, establish procedures for transmitting by mail and electronically blank absentee ballots to absent uniformed services voters and overseas voters with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (f).''; and

(2) by adding at the end the following new subsection:

''(f) TRANSMISSION OF BLANK ABSENTEE BALLOTS BY MAIL AND ELECTRONICALLY.—

''(1) IN GENERAL.—Each State shall establish procedures—

''(A) to transmit blank absentee ballots by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas voter under subparagraph (B)) to absent uniformed services voters and overseas voters for an election for Federal office; and

''(B) by which the absent uniformed services voter or overseas voter can designate whether they prefer for such blank absentee ballot to be transmitted by mail or electronically.

''(2) TRANSMISSION IF NO PREFERENCE INDICATED.—In the case where an absent uniformed services voter or overseas voter does not designate a preference under paragraph (1)(B), the State shall transmit the ballot by any delivery method allowable in accordance with applicable State law, or if there is no applicable State law, by mail.

''(3) SECURITY AND PRIVACY PROTECTIONS.—

''(A) SECURITY PROTECTIONS.—To the extent practicable, States shall ensure that the procedures established under subsection (a)(7) protect the security and integrity of absentee ballots.

''(B) PRIVACY PROTECTIONS.—To the extent practicable, the procedures established under subsection (a)(7) shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter to whom a blank absentee ballot is transmitted under such subsection is protected throughout the process of such transmission.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 586. ENSURING ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS HAVE TIME TO VOTE.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1(a)(1)), as amended by section 585, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraph:

''(8) transmit a validly requested absentee ballot to an absent uniformed services voter or overseas voter—

''(A) except as provided in subsection (g), in the case where the request is received at least 45 days before an election for Federal office, not later than 45 days before the election; and

''(B) in the case where the request is received less than 45 days before an election for Federal office—

''(i) in accordance with State law; and

''(ii) if practicable and as determined appropriate by the State, in a manner that expedites the transmission of such absentee ballot.''.

(2) by adding at the end the following new subsection:

''(g) HARDSHIP EXEMPTION.—

''(1) IN GENERAL.—If the chief State election official determines that the State is unable to meet the requirement under subsection (a)(8)(A) with respect to an election for Federal office due to an undue hardship described in paragraph (2)(B), the chief State election official shall request that the Presidential designee grant a waiver to the State of the application of such subsection. Such request shall include—

''(A) a recognition that the purpose of such subsection is to allow absent uniformed services voters and overseas voters enough time to vote in an election for Federal office;

''(B) an explanation of the hardship that indicates why the State is unable to transmit absent uniformed services voters and overseas voters an absentee ballot in accordance with such subsection;

''(C) the number of days prior to the election for Federal office that the State requires absentee ballots be transmitted to absent uniformed services voters and overseas voters; and

''(D) a comprehensive plan to ensure that absent uniformed services voters and overseas voters are able to receive absentee ballots which they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office, which includes—

''(i) the steps the State will undertake to ensure that absent uniformed services voters and overseas voters have time to receive, mark, and submit their ballots in time to have those ballots counted in the election;

''(ii) why the plan provides absent uniformed services voters and overseas voters sufficient time to vote as a substitute for the requirements under such subsection; and

''(iii) the underlying factual information which explains how the plan provides such sufficient time to vote as a substitute for such requirements.

''(2) APPROVAL OF WAIVER REQUEST.—After consulting with the Attorney General, the Presidential designee shall approve a waiver request under paragraph (1) if the Presidential designee determines each of the following requirements are met:

''(A) The comprehensive plan under subparagraph (D) of such paragraph provides absent uniformed services voters and overseas voters sufficient time to receive absentee

ballots they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office.

''(B) One or more of the following issues creates an undue hardship for the State:

''(i) The State's primary election date prohibits the State from complying with subsection (a)(8)(A).

''(ii) The State has suffered a delay in generating ballots due to a legal contest.

''(iii) The State Constitution prohibits the State from complying with such subsection.

''(3) TIMING OF WAIVER.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), a State that requests a waiver under paragraph (1) shall submit to the Presidential designee the written waiver request not later than 90 days before the election for Federal office with respect to which the request is submitted. The Presidential designee shall approve or deny the waiver request not later than 65 days before such election.

''(B) EXCEPTION.—If a State requests a waiver under paragraph (1) as the result of an undue hardship described in paragraph (2)(B)(ii), the State shall submit to the Presidential designee the written waiver request as soon as practicable. The Presidential designee shall approve or deny the waiver request not later than 5 business days after the date on which the request is received.

''(4) APPLICATION OF WAIVER.—A waiver approved under paragraph (2) shall only apply with respect to the election for Federal office for which the request was submitted. For each subsequent election for Federal office, the Presidential designee shall only approve a waiver if the State has submitted a request under paragraph (1) with respect to such election.''.

(b) RUNOFF ELECTIONS.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1(a)), as amended by subsection (a), is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(9) if the State declares or otherwise holds a runoff election for Federal office, establish a written plan that provides absentee ballots are made available to absent uniformed services voters and overseas voters in manner that gives them sufficient time to vote in the runoff election.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 587. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

(a) IN GENERAL.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended by inserting after section 103 the following new section:

''SEC. 103A. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

''(a) ESTABLISHMENT OF PROCEDURES.—The Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and the Federal write-in absentee ballot prescribed under section 103, and for delivering such marked absentee ballots to the appropriate election officials.

''(b) DELIVERY TO APPROPRIATE ELECTION OFFICIALS.—

''(1) IN GENERAL.—Under the procedures established under this section, the Presidential designee shall implement procedures that facilitate the delivery of marked absentee ballots of absent overseas uniformed services voters for regularly scheduled general elections for Federal office to the appropriate election officials, in accordance with this section, not later than the date by which an absentee ballot must be received in order to be counted in the election.

''(2) COOPERATION AND COORDINATION WITH THE UNITED STATES POSTAL SERVICE.—The Presidential designee shall carry out this section in cooperation and coordination with the United States Postal Service, and shall provide expedited mail delivery service for all such marked absentee ballots of absent uniformed services voters that are collected on or before the deadline described in paragraph (3) and then transferred to the United States Postal Service.

''(3) DEADLINE DESCRIBED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the deadline described in this paragraph is noon (in the location in which the ballot is collected) on the seventh day preceding the date of the regularly scheduled general election for Federal office.

''(B) AUTHORITY TO ESTABLISH ALTERNATIVE DEADLINE FOR CERTAIN LOCATIONS.—If the Presidential designee determines that the deadline described in subparagraph (A) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential designee may establish as an alternative deadline for that location the latest date occurring prior to the deadline described in subparagraph (A) which is sufficient to provide timely delivery of the ballot under paragraph (1).

''(4) NO POSTAGE REQUIREMENT.—In accordance with section 3406 of title 39, United States Code, such marked absentee ballots and other balloting materials shall be carried free of postage.

''(5) DATE OF MAILING.—Such marked absentee ballots shall be postmarked with a record of the date on which the ballot is mailed.

''(c) OUTREACH FOR ABSENT OVERSEAS UNIFORMED SERVICES VOTERS ON PROCEDURES.—The Presidential designee shall take appropriate actions to inform individuals who are anticipated to be absent overseas uniformed services voters in a regularly scheduled general election for Federal office to which this section applies of the procedures for the collection and delivery of marked absentee ballots established pursuant to this section, including the manner in which such voters may utilize such procedures for the submittal of marked absentee ballots pursuant to this section.

''(d) ABSENT OVERSEAS UNIFORMED SERVICES VOTER DEFINED.—In this section, the term 'absent overseas uniformed services voter' means an overseas voter described in section 107(5)(A).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this section.''.

(b) CONFORMING AMENDMENT.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(8) carry out section 103A with respect to the collection and delivery of marked absentee ballots of absent overseas uniformed services voters in elections for Federal office.''.

(c) STATE RESPONSIBILITIES.—Section 102(a) of such Act (42 U.S.C. 1973ff–1(a)), as amended by section 586, is amended—

(1) in paragraph (8), by striking ''and'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(3) by adding the following new paragraph:

''(10) carry out section 103A(b)(1) with respect to the processing and acceptance of marked absentee ballots of absent overseas uniformed services voters.''.

(d) TRACKING MARKED BALLOTS.—Section 102 of such Act (42 U.S.C. 1973ff–1(a)), as amended by section 586, is amended by adding at the end the following new subsection:

''(h) TRACKING MARKED BALLOTS.—The chief State election official, in coordination with local election jurisdictions, shall develop a free access system by which an absent uniformed services voter or overseas voter may determine whether the absentee ballot of the absent uniformed services voter or overseas voter has been received by the appropriate State election official.''.

(e) PROTECTING VOTER PRIVACY AND SECRECY OF ABSENTEE BALLOTS.—Section 101(b) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(b)), as amended by subsection (b), is amended—

(1) by striking ''and'' at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(9) to the greatest extent practicable, take such actions as may be necessary—

''(A) to ensure that absent uniformed services voters who cast absentee ballots at locations or facilities under the jurisdiction of the Presidential designee are able to do so in a private and independent manner; and

''(B) to protect the privacy of the contents of absentee ballots cast by absentee uniformed services voters and overseas voters while such ballots are in the possession or control of the Presidential designee.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 588. FEDERAL WRITE-IN ABSENTEE BALLOT.

(a) USE IN GENERAL, SPECIAL, PRIMARY, AND RUNOFF ELECTIONS FOR FEDERAL OFFICE.—

(1) IN GENERAL.—Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–2) is amended—

(A) in subsection (a), by striking ''general elections for Federal office'' and inserting ''general, special, primary, and runoff elections for Federal office'';

(B) in subsection (e), in the matter preceding paragraph (1), by striking ''a general election'' and inserting ''a general, special, primary, or runoff election for Federal office''; and

(C) in subsection (f), by striking ''the general election'' each place it appears and inserting ''the general, special, primary, or runoff election for Federal office''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 31, 2010, and apply with respect to elections for Federal office held on or after such date.

(b) PROMOTION AND EXPANSION OF USE.—Section 103(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–2) is amended—

(1) by striking ''GENERAL.—The Presidential'' and inserting ''GENERAL.—

''(1) FEDERAL WRITE-IN ABSENTEE BALLOT.—The Presidential''; and

(2) by adding at the end the following new paragraph:

''(2) PROMOTION AND EXPANSION OF USE OF FEDERAL WRITE-IN ABSENTEE BALLOTS.—

''(A) IN GENERAL.—Not later than December 31, 2011, the Presidential designee shall adopt procedures to promote and expand the use of the Federal write-in absentee ballot as a back-up measure to vote in elections for Federal office.

''(B) USE OF TECHNOLOGY.—Under such procedures, the Presidential designee shall utilize technology to implement a system under which the absent uniformed services voter or overseas voter may—

''(i) enter the address of the voter or other information relevant in the appropriate jurisdiction of the State, and the system will generate a list of all candidates in the election for Federal office in that jurisdiction; and

''(ii) submit the marked Federal write-in absentee ballot by printing the ballot (including complete instructions for submitting the marked Federal write-in absentee ballot to the appropriate State election official and the mailing address of the single State office designated under section 102(b)).

''(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this paragraph.''.

SEC. 589. PROHIBITING REFUSAL TO ACCEPT VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS, MARKED ABSENTEE BALLOTS, AND FEDERAL WRITE-IN ABSENTEE BALLOTS FOR FAILURE TO MEET CERTAIN REQUIREMENTS.

(a) VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 587, is amended by adding at the end the following new subsection:

''(i) PROHIBITING REFUSAL TO ACCEPT APPLICATIONS FOR FAILURE TO MEET CERTAIN REQUIREMENTS.—A State shall not refuse to accept and process any otherwise valid voter registration application or absentee ballot application (including the official post card form prescribed under section 101) or marked absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

''(1) Notarization requirements.

''(2) Restrictions on paper type, including weight and size.

''(3) Restrictions on envelope type, including weight and size.''.

(b) FEDERAL WRITE-IN ABSENTEE BALLOT.—Section 103 of such Act (42 U.S.C. 1973ff–2) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) PROHIBITING REFUSAL TO ACCEPT BALLOT FOR FAILURE TO MEET CERTAIN REQUIREMENTS.—A State shall not refuse to accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

''(1) Notarization requirements.

''(2) Restrictions on paper type, including weight and size.

''(3) Restrictions on envelope type, including weight and size.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 590. FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.

(a) FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.—

(1) IN GENERAL.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.), as amended by section 587, is amended by inserting after section 103A the following new section:

''SEC. 103B. FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.

''(a) DUTIES.—The Presidential designee shall carry out the following duties:

''(1) Develop online portals of information to inform absent uniformed services voters regarding voter registration procedures and absentee ballot procedures to be used by such voters with respect to elections for Federal office.

''(2) Establish a program to notify absent uniformed services voters of voter registration information and resources, the availability of the Federal postcard application, and the availability of the Federal write-in absentee ballot on the military Global Network, and shall use the military Global Network to notify absent uniformed services voters of the foregoing 90, 60, and 30 days prior to each election for Federal office.

''(b) CLARIFICATION REGARDING OTHER DUTIES AND OBLIGATIONS.—Nothing in this section shall relieve the Presidential designee of their duties and obligations under any directives or regulations issued by the Department of Defense, including the Department of Defense Directive 1000.04 (or any successor directive or regulation) that is not inconsistent or contradictory to the provisions of this section.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Voting Assistance Program of the Department of Defense (or a successor program) such sums as are necessary for purposes of carrying out this section.''.

(2) CONFORMING AMENDMENTS.—Section 101 of such Act (42 U.S.C. 1973ff), as amended by section 587, is amended—

(A) in subparagraph (b)—

(i) by striking ''and'' at the end of paragraph (8);

(ii) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(iii) by adding at the end the following new paragraph:

''(10) carry out section 103B with respect to Federal Voting Assistance Program Improvements.''; and

(B) by adding at the end the following new subsection:

''(d) AUTHORIZATION OF APPROPRIATIONS FOR CARRYING OUT FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.—There are authorized to be appropriated to the Presidential designee such sums as are necessary for purposes of carrying out subsection (b)(10).''.

(b) VOTER REGISTRATION ASSISTANCE FOR ABSENT UNIFORMED SERVICES VOTERS.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 589, is amended by adding at the end the following new subsection:

''(j) VOTER REGISTRATION ASSISTANCE FOR ABSENT UNIFORMED SERVICES VOTERS.—

''(1) DESIGNATING AN OFFICE AS A VOTER REGISTRATION AGENCY ON EACH INSTALLATION OF THE ARMED FORCES.—Not later than 180 days after the date of enactment of this subsection, each Secretary of a military department shall take appropriate actions to designate an office on each installation of the Armed Forces under the jurisdiction of such Secretary (excluding any installation in a theater of combat), consistent across every installation of the department of the Secretary concerned, to provide each individual described in paragraph (3)—

''(A) written information on voter registration procedures and absentee ballot procedures (including the official post card form prescribed under section 101);

''(B) the opportunity to register to vote in an election for Federal office;

''(C) the opportunity to update the individual's voter registration information, including clear written notice and instructions for the absent uniformed services voter to change their address by submitting the official post card form prescribed under section 101 to the appropriate State election official; and

''(D) the opportunity to request an absentee ballot under this Act.

''(2) DEVELOPMENT OF PROCEDURES.—Each Secretary of a military department shall develop, in consultation with each State and the Presidential designee, the procedures necessary to provide the assistance described in paragraph (1).

''(3) INDIVIDUALS DESCRIBED.—The following individuals are described in this paragraph:

''(A) An absent uniformed services voter—

''(i) who is undergoing a permanent change of duty station;

''(ii) who is deploying overseas for at least 6 months;

''(iii) who is or returning from an overseas deployment of at least 6 months; or

''(iv) who at any time requests assistance related to voter registration.

''(B) All other absent uniformed services voters (as defined in section 107(1)).

''(4) TIMING OF PROVISION OF ASSISTANCE.—The assistance described in paragraph (1) shall be provided to an absent uniformed services voter—

''(A) described in clause (i) of paragraph (3)(A), as part of the administrative in-processing of the member upon arrival at the new duty station of the absent uniformed services voter;

''(B) described in clause (ii) of such paragraph, as part of the administrative in-processing of the member upon deployment from the home duty station of the absent uniformed services voter;

''(C) described in clause (iii) of such paragraph, as part of the administrative in-processing of the member upon return to the home duty station of the absent uniformed services voter;

''(D) described in clause (iv) of such paragraph, at any time the absent uniformed services voter requests such assistance; and

''(E) described in paragraph (3)(B), at any time the absent uniformed services voter requests such assistance.

''(5) PAY, PERSONNEL, AND IDENTIFICATION OFFICES OF THE DEPARTMENT OF DEFENSE.—The Secretary of Defense may designate pay, personnel, and identification offices of the Department of Defense for persons to apply to register to vote, update the individual's voter registration information, and request an absentee ballot under this Act.

''(6) TREATMENT OF OFFICES DESIGNATED AS VOTER REGISTRATION AGENCIES.—An office designated under paragraph (1) or (5) shall be considered to be a voter registration agency designated under section 7(a)(2) of the National Voter Registration Act of 1993 for all purposes of such Act.

''(7) OUTREACH TO ABSENT UNIFORMED SERVICES VOTERS.—The Secretary of each military department or the Presidential designee shall take appropriate actions to inform absent uniformed services voters of the assistance available under this subsection including—

''(A) the availability of voter registration assistance at offices designated under paragraphs (1) and (5); and

''(B) the time, location, and manner in which an absent uniformed voter may utilize such assistance.

''(8) DEFINITION OF MILITARY DEPARTMENT AND SECRETARY CONCERNED.—In this subsection, the terms 'military department' and 'Secretary concerned' have the meaning

given such terms in paragraphs (8) and (9), respectively, of section 101 of title 10, United States Code.

''(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 591. DEVELOPMENT OF STANDARDS FOR REPORTING AND STORING CERTAIN DATA.

(a) IN GENERAL.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)), as amended by section 590, is amended—

(1) by striking ''and'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(11) working with the Election Assistance Commission and the chief State election official of each State, develop standards—

''(A) for States to report data on the number of absentee ballots transmitted and received under section 102(c) and such other data as the Presidential designee determines appropriate; and

''(B) for the Presidential designee to store the data reported.''.

(b) CONFORMING AMENDMENT.—Section 102(a) of such Act (42 U.S.C. 1973ff–1(a)), as amended by section 587, is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(11) report data on the number of absentee ballots transmitted and received under section 102(c) and such other data as the Presidential designee determines appropriate in accordance with the standards developed by the Presidential designee under section 101(b)(11).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 592. REPEAL OF PROVISIONS RELATING TO USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.

(a) IN GENERAL.—Subsections (a) through (d) of section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–3) are repealed.

(b) CONFORMING AMENDMENTS.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended—

(1) in section 101(b)—

(A) in paragraph (2), by striking '', for use by States in accordance with section 104''; and

(B) in paragraph (4), by striking ''for use by States in accordance with section 104''; and

(2) in section 104, as amended by subsection (a)—

(A) in the section heading, by striking ''**USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS**'' and inserting ''**PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION**''; and

(B) in subsection (e), by striking ''(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.—''.

SEC. 593. REPORTING REQUIREMENTS.

The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended by inserting after section 105 the following new section:

''SEC. 105A. REPORTING REQUIREMENTS.

''(a) REPORT ON STATUS OF IMPLEMENTATION AND ASSESSMENT OF PROGRAMS.—Not later than 180 days after the date of the enactment of the Military and Overseas Voter Empowerment Act, the Presidential designee shall submit to the relevant committees of Congress a report containing the following information:

''(1) The status of the implementation of the procedures established for the collection and delivery of marked absentee ballots of absent overseas uniformed services voters under section 103A, and a detailed description of the specific steps taken towards such implementation for the regularly scheduled general election for Federal office held in November 2010.

''(2) An assessment of the effectiveness of the Voting Assistance Officer Program of the Department of Defense, which shall include the following:

''(A) A thorough and complete assessment of whether the Program, as configured and implemented as of such date of enactment, is effectively assisting absent uniformed services voters in exercising their right to vote.

''(B) An inventory and explanation of any areas of voter assistance in which the Program has failed to accomplish its stated objectives and effectively assist absent uniformed services voters in exercising their right to vote.

''(C) As necessary, a detailed plan for the implementation of any new program to replace or supplement voter assistance activities required to be performed under this Act.

''(3) A detailed description of the specific steps taken towards the implementation of voter registration assistance for absent uniformed services voters under section 102(j), including the designation of offices under paragraphs (1) and (5) of such section.

''(b) ANNUAL REPORT ON EFFECTIVENESS OF ACTIVITIES AND UTILIZATION OF CERTAIN PROCEDURES.—Not later than March 31 of each year, the Presidential designee shall transmit to the President and to the relevant committees of Congress a report containing the following information:

''(1) An assessment of the effectiveness of activities carried out under section 103B, including the activities and actions of the Federal Voting Assistance Program of the Department of Defense, a separate assessment of voter registration and participation by absent uniformed services voters, a separate assessment of voter registration and participation by overseas voters who are not members of the uniformed services, and a description of the cooperation between States and the Federal Government in carrying out such section.

''(2) A description of the utilization of voter registration assistance under section 102(j), which shall include the following:

''(A) A description of the specific programs implemented by each military department of the Armed Forces pursuant to such section.

''(B) The number of absent uniformed services voters who utilized voter registration assistance provided under such section.

''(3) In the case of a report submitted under this subsection in an even-numbered year in which a regularly scheduled general election for Federal office is held, a description of the utilization of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A, which shall include the number of marked absentee ballots collected and delivered under such procedures and the number of such ballots which were not delivered by the time of the closing of the polls on the date of the election (and the reasons such ballots were not so delivered).

''(c) DEFINITIONS.—In this section:

''(1) ABSENT OVERSEAS UNIFORMED SERVICES VOTER.—The term 'absent overseas uniformed services voter' has the meaning given such term in section 103A(d).

''(2) PRESIDENTIAL DESIGNEE.—The term 'Presidential designee' means the Presidential designee under section 101(a).

''(3) RELEVANT COMMITTEES OF CONGRESS DEFINED.—The term 'relevant committees of Congress' means—

''(A) the Committees on Appropriations, Armed Services, and Rules and Administration of the Senate; and

''(B) the Committees on Appropriations, Armed Services, and House Administration of the House of Representatives.''.

SEC. 594. ANNUAL REPORT ON ENFORCEMENT.

Section 105 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973f–4) is amended—

(1) by striking ''The Attorney'' and inserting ''(a) IN GENERAL.—The Attorney''; and

(2) by adding at the end the following new subsection:

''(b) REPORT TO CONGRESS.—Not later than December 31 of each year, the Attorney General shall submit to Congress an annual report on any civil action brought under subsection (a) during the preceding year.''.

SEC. 595. REQUIREMENTS PAYMENTS.

(a) USE OF FUNDS.—Section 251(b) of the Help America Vote Act of 2002 (42 U.S.C. 15401(b)) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following new paragraph:

''(3) ACTIVITIES UNDER UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.—A State shall use a requirements payment made using funds appropriated pursuant to the authorization under section 257(4) only to meet the requirements under the Uniformed and Overseas Citizens Absentee Voting Act imposed as a result of the provisions of and amendments made by the Military and Overseas Voter Empowerment Act.''.

(b) REQUIREMENTS.—

(1) STATE PLAN.—Section 254(a) of the Help America Vote Act of 2002 (42 U.S.C. 15404(a)) is amended by adding at the end the following new paragraph:

''(14) How the State plan will comply with the provisions and requirements of and amendments made by the Military and Overseas Voter Empowerment Act.''.

(2) CONFORMING AMENDMENTS.—Section 253(b) of the Help America Vote Act of 2002 (42 U.S.C. 15403(b)) is amended—

(A) in paragraph (1)(A), by striking ''section 254'' and inserting ''subsection (a) of section 254 (or, in the case where a State is seeking a requirements payment made using funds appropriated pursuant to the authorization under section 257(4), paragraph (14) of section 254)''; and

(B) in paragraph (2)—

(i) by striking ''(2) The State'' and inserting ''(2)(A) Subject to subparagraph (B), the State''; and

(ii) by inserting after subparagraph (A), as added by clause (i), the following new subparagraph:

''(B) The requirement under subparagraph (A) shall not apply in the case of a requirements payment made using funds appropriated pursuant to the authorization under section 257(4).''.

(c) AUTHORIZATION.—Section 257(a) of the Help America Vote Act of 2002 (42 U.S.C. 15407(a)) is amended by adding at the end the following new paragraph:

''(4) For fiscal year 2010 and subsequent fiscal years, such sums as are necessary for purposes of making requirements payments to States to carry out the activities described in section 251(b)(3).''.

SEC. 596. TECHNOLOGY PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ABSENT UNIFORMED SERVICES VOTER.—The term ''absent uniformed services voter'' has the meaning given such term in section 107(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(2) OVERSEAS VOTER.—The term ''overseas voter'' has the meaning given such term in section 107(5) of such Act.

(3) PRESIDENTIAL DESIGNEE.—The term ''Presidential designee'' means the individual designated under section 101(a) of such Act.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Presidential designee may establish 1 or more pilot programs under which the feasibility of new election technology is tested for the benefit of absent uniformed services voters and overseas voters claiming rights under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(2) DESIGN AND CONDUCT.—The design and conduct of a pilot program established under this subsection—

(A) shall be at the discretion of the Presidential designee; and

(B) shall not conflict with or substitute for existing laws, regulations, or procedures with respect to the participation of absent uniformed services voters and military voters in elections for Federal office.

(c) CONSIDERATIONS.—In conducting a pilot program established under subsection (b), the Presidential designee may consider the following issues:

(1) The transmission of electronic voting material across military networks.

(2) Virtual private networks, cryptographic voting systems, centrally controlled voting stations, and other information security techniques.

(3) The transmission of ballot representations and scanned pictures in a secure manner.

(4) Capturing, retaining, and comparing electronic and physical ballot representations.

(5) Utilization of voting stations at military bases.

(6) Document delivery and upload systems.

(7) The functional effectiveness of the application or adoption of the pilot program to operational environments, taking into account environmental and logistical obstacles and State procedures.

(d) REPORTS.—The Presidential designee shall submit to Congress reports on the progress and outcomes of any pilot program conducted under this subsection, together with recommendations—

(1) for the conduct of additional pilot programs under this section; and

(2) for such legislation and administrative action as the Presidential designee determines appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 1726. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title V, add the following:

SEC. 573. PROVISION TO MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES OF COMPREHENSIVE INFORMATION ON BENEFITS FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) PROVISION OF COMPREHENSIVE INFORMATION REQUIRED.—The Secretary of the military department concerned shall, at each time specified in subsection (b), provide to each member of the Armed Forces and, when practicable, the family members of such member comprehensive information on the benefits available to such member and family members as described in subsection (c), including the estimated monetary amount of such benefits and of any applicable offsets to such benefits.

(b) TIMES FOR PROVISION OF INFORMATION.—Comprehensive information on benefits shall be provided a member of the Armed Forces and family members at each time as follows:

(1) Within 180 days of the enlistment, accession, or commissioning of the member as a member of the Armed Forces.

(2) Within 180 days of a determination that the member—

(A) has incurred a service-connected disability; and

(B) is unfit to perform the duties of the member's office, grade, rank, or rating because of such disability.

(3) Upon the discharge, separation, retirement, or release of the member from the Armed Forces.

(c) COVERED BENEFITS.—The benefits on which a member of the Armed Forces and family members shall be provided comprehensive information under this section shall be as follows:

(1) At all the times described in subsection (b), the benefits shall include the following:

(A) Financial compensation, including financial counseling.

(B) Health care and life insurance programs for members of the Armed Forces and their families.

(C) Death benefits.

(D) Entitlements and survivor benefits for dependents of the Armed Forces, including offsets in the receipt of such benefits under the Survivor Benefit Plan and in connection with the receipt of dependency and indemnity compensation.

(E) Educational assistance benefits, including limitations on and the transferability of such assistance.

(F) Housing assistance benefits, including counseling.

(G) Relocation planning and preparation.

(H) Such other benefits as the Secretary concerned considers appropriate.

(2) At the time described in paragraph (1) of such subsection, the benefits shall include the following:

(A) Maintaining military records.

(B) Legal assistance.

(C) Quality of life programs.

(D) Family and community programs.

(E) Such other benefits as the Secretary concerned considers appropriate.

(3) At the times described in paragraphs (2) and (3) of such subsection, the benefits shall include the following:

(A) Employment assistance.

(B) Continuing Reserve Component service.

(C) Disability benefits, including offsets in connection with the receipt of such benefits.

(D) Benefits and services provided under laws administered by the Secretary of Veterans Affairs.

(E) Such other benefits as the Secretary concerned considers appropriate.

(d) ANNUAL NOTICE TO MEMBERS OF THE ARMED FORCES ON THE VALUE OF PAY AND BENEFITS.—

(1) ANNUAL NOTICE REQUIRED.—The Secretary of each military department shall provide to each member of the Armed Forces under the jurisdiction of such Secretary on an annual basis notice on the value of the pay and benefits paid or provided to such member by law during the preceding year. The notice may be provided in writing or electronically, at the election of the Secretary.

(2) ELEMENTS.—Each notice provided a member under paragraph (1) shall include the following:

(A) A statement of the estimated value of the military health care, retirement benefits, disability benefits, commissary and exchange privileges, government-provided housing, tax benefits associated with service in the Armed Forces, and special pays paid or provided the member during the preceding 12 months.

(B) A notice regarding the death and survivor benefits, including Servicemembers' Group Life Insurance, to which the family of the member would be entitled in the event of the death of the member, and a description of any offsets that might be applicable to such benefits.

(C) Information on other programs available to members of the Armed Forces generally, such as access to morale, welfare, and recreation (MWR) facilities, child care, and education tuition assistance, and the estimated value, if ascertainable, of the availability of such programs in the area where the member is stationed or resides.

(e) OTHER OUTREACH.—

(1) IN GENERAL.—The Secretaries of the military departments shall, on a periodic basis, conduct outreach on the pay, benefits, and programs and services available to members of the Armed Forces by reason of service in the Armed Forces. The outreach shall be conducted pursuant to public service announcements, publications, and such other announcements through general media as will serve to disseminate the information broadly among the general public.

(2) INTERNET OUTREACH WEBSITE.—

(A) IN GENERAL.—The Secretary of Defense shall establish an Internet website for the purpose of providing the comprehensive information about the benefits and offsets described in subsection (c) to members of the Armed Forces and their families.

(B) CONTACT INFORMATION.—The Internet website required by subparagraph (A) shall provide contact information, both telephone and e-mail, that a member of the Armed Forces and a family member of the member can use to get personalized information about the benefits and offsets described in subsection (c).

(f) REPORTS.—

(1) INITIAL REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the requirements of this section by the Department of Defense. Such report shall include a description of the quality and scope of available online resources that provide information about benefits for members of the Armed Forces and their families.

(2) ANNUAL REPORT.—Each year after submitting the report required by paragraph (1), the Secretary of Defense shall submit to the congressional defense committees a report that sets forth the number of individuals that received a briefing under this section in the previous year disaggregated by the following:

(A) Whether the individual is a member of the Armed Forces or a family member of a member of the Armed Forces.

(B) The Armed Force of the members.

(C) The State or territory in which the briefing occurred.

(D) The subject of the briefing.

SA 1727. Mr. DEMINT (for himself and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 549, strike line 9 and all that follows through ''any comments resulting'' on line 16 and insert the following: ''congressional defense committees and the Committee on Foreign relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy and the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations. The report shall address the following:

(1) How the plans would support the security commitments undertaken by the United States pursuant to any international security treaty, including, the North Atlantic Treaty, The Treaty of Mutual Cooperation and Security between the United States and Japan, and the Security Treaty Between Australia, New Zealand, and the United States of America.

(2) The impact of such plans on the current security environments in the combatant commands, including United States participation in theater security cooperation activities and bilateral partnership, exchanges, and training exercises.

(3) Any comments of the Secretary of Defense resulting

SA 1728. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XII, add the following:

SEC. 1222. REPORT ON THE RELATIONSHIPS OF THE GOVERNMENTS OF VENEZUELA AND NICARAGUA WITH THE FORMER PRESIDENT OF HONDURAS.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional committees specified in subsection (c) a detailed report addressing the following:

(1) Any cooperative agreements or relationships between the Governments of Venezuela and Nicaragua and Honduras established during the tenure of the former President of Honduras, Manuel Zelaya.

(2) Any personal, professional, or diplomatic relationships, including financial transactions, business associations, and illicit activities, between Manuel Zelaya and—

(A) the President of Venezuela, Hugo Chavez;

(B) the President of Nicaragua, Daniel Ortega;

(C) the President of Cuba, Raul Castro; or

(D) the former President of Cuba, Fidel Castro.

(3) Any evidence of—

(A) relationships between Manuel Zelaya, or any member of his family, and drug cartels; or

(B) involvement by Manuel Zelaya or any member of his family in drug trafficking activities.

(4) Any support provided by the Government of Venezuela or the Government of Nicaragua to Manuel Zelaya in his efforts to change the Constitution of Honduras.

(5) Any material or financial support provided by the Government of Venezuela or the Government of Nicaragua to Manuel Zelaya after his removal from office on June 28, 2009, including the use of aircraft to support Manuel Zelaya or funding of organizers supporting Manuel Zelaya or protestors in Honduras.

(b) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

(c) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in this subsection are the following:

(1) The congressional defense committees.

(2) The Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(3) The Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SA 1729. Mr. BAUCUS (for himself and Mr. TESTER) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, between lines 14 and 15, insert the following:

SEC. 706. NOTIFICATION OF CERTAIN INDIVIDUALS REGARDING OPTIONS FOR ENROLLMENT UNDER MEDICARE PART B.

Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

''SEC. 1111. NOTIFICATION OF CERTAIN INDIVIDUALS REGARDING OPTIONS FOR ENROLLMENT UNDER MEDICARE PART B.

''(a) IN GENERAL.—The Secretary of Defense shall establish procedures for identifying individuals described in subsection (b). The Secretary of Defense shall immediately notify individuals identified under the preceding sentence that they are no longer eligible for health care benefits under the TRICARE program under chapter 55 of title 10, United States Code, and of any options available for enrollment of the individual under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.). Such notification shall include a written form which the individual may sign and return to the Secretary of Health and Human Services. The signed written form of an individual shall be deemed sufficient evidence of the eligibility of the individual for any such options available for such individuals as a result of their being an individual described in subsection (b). The Secretary of Defense shall consult with the Secretary of Health and Human Services to accurately identify and notify individuals described in subsection (b) under this subsection.

''(b) INDIVIDUALS DESCRIBED.—An individual described in this subsection is an individual who is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code) at the time the individual is entitled to part A of title XVIII of the Social Security Act under section 226(b) or section 226A of such Act (42 U.S.C. 426(b) and 426–1) and who is eligible to enroll but who has elected not to enroll (or to be deemed enrolled) during the individual's initial enrollment period under part B of such title.''.

SA 1730. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 115. COMPETITIVE BIDDING FOR PROCUREMENT OF STEAM TURBINES FOR SHIPS SERVICE TURBINE GENERATORS AND MAIN PROPULSION TURBINES FOR OHIO-CLASS SUBMARINE REPLACEMENT PROGRAM.

The Secretary of the Navy shall solicit competing bids for the procurement of steam turbines for the ships service turbine generators and main propulsion turbines for the Ohio-class submarine replacement program.

SA 1731. Mr. FEINGOLD (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 835, add the following:

(d) PROHIBITION ON DISPOSING OF WASTE IN OPEN-AIR BURN PITS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and beginning 180 days after the date of the enactment of this Act, the Secretary of Defense shall prohibit the disposal of covered waste in an open-air burn pit during a contingency operation—

(A) lasting longer than one year; and

(B) relating to Operation Iraqi Freedom or Operation Enduring Freedom.

(2) EXEMPTION.—The Secretary of Defense may waive the prohibition required by paragraph (1) with respect to a location during a contingency operation described in paragraph (1) if—

(A) the Secretary determines under paragraph (3)(B)(ii) that no alternative method of disposal of covered waste is feasible at such location during such operation;

(B) not later than 15 days after issuing such waiver, the Secretary submits to the congressional defense committees a notification of such waiver, including—

(i) a description of all safety measures that will be carried out at the location during the operation to protect the health of members of the Armed Forces;

(ii) a description of any additional resources the Secretary requires to eliminate the use of open-air burn pits at such location during such operation; and

(iii) a detailed discussion explaining why open-air burn pits are the only feasible method of disposing of waste at such location during such operation; and

(C) such waiver is certified by the Comptroller General of the United States.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the use of open-air burn pits in contingency operations. The report shall include—

(A) a description of each type of waste burned in such open-air burn pits; and

(B) a discussion of the feasibility of alternative methods of disposing of covered waste, including—

(i) a plan to use such alternative methods; or

(ii) if the Secretary determines that no such alternative method is feasible, a detailed discussion explaining why open-air burn pits are the only feasible method of disposing of such waste.

(4) DEFINITIONS.—In this subsection:

(A) CONTINGENCY OPERATION.—The term ''contingency operation'' has the meaning given that term by section 101(a) of title 10, United States Code.

(B) COVERED WASTE.—The term ''covered waste'' includes the following:

(i) Hazardous waste, as defined by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5)).

(ii) Medical waste.

(iii) Solid waste containing plastic.

(iv) Automotive and marine batteries.

(v) Pesticides.

(vi) Explosives.

(vii) Automotive oils.

(viii) Fuels and fluids.

(ix) Compressed gas containers.

(x) Materials containing asbestos.

(xi) Electrical equipment.

(xii) Solvents.

(xiii) Paint thinners and strippers.

(xiv) Rubber.

(xv) Preserved (treated) wood.

(xvi) Unexploded ordnance.

(C) MEDICAL WASTE.—The term ''medical waste'' means any solid waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production of testing of biologicals.

SA 1732. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title X, insert the following:

SEC. 1059. ADDITIONAL DUTY FOR ADVISORY PANEL ON DEPARTMENT OF DEFENSE CAPABILITIES FOR SUPPORT OF CIVIL AUTHORITIES AFTER CERTAIN INCIDENTS.

Section 1082(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 337) is amended by—

(1) redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively;

(2) in paragraph (4), by striking ''other department'' and inserting ''other departments''; and

(3) by inserting after paragraph (6) the following new paragraphs:

''(7) assess the adequacy of the process and methodology by which the Department of Defense establishes, maintains, and resources dedicated, special, and general purpose forces for conducting operations described in paragraph (1);

''(8) assess the adequacy of the resources planned and programmed by the Department of Defense to ensure the preparedness and capability of dedicated, special, and general purpose forces for conducting operations described in paragraph (1);''.

SA 1733. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1204 and insert the following:

SEC. 1204. MODIFICATION OF NOTIFICATION AND REPORTING REQUIREMENTS FOR USE OF AUTHORITY FOR SUPPORT OF SPECIAL OPERATIONS TO COMBAT TERRORISM.

Section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086), as amended by section 1208(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4626), is further amended—

(1) in subsection (b), by striking ''congressional defense committees'' and inserting ''congressional committees specified in subsection (i)'';

(2) by striking subsection (c) and inserting the following new subsection (c):

''(c) NOTIFICATION.—

''(1) SUPPORT FOR FOREIGN FORCES.—The Secretary of Defense shall notify the congressional committees specified in subsection (i) expeditiously, and in any event not later than 48 hours, after—

''(A) using the authority provided in subsection (a) to make funds available for foreign forces in support of an approved military operation; or

''(B) changing the scope or funding level of any such support.

''(2) SUPPORT FOR IRREGULAR FORCES, GROUPS, OR INDIVIDUALS.—The Secretary of Defense may not exercise the authority provided in subsection (a) to make funds available for irregular forces or a group (other than foreign forces) or individual in support of an approved military operation, or change the scope or funding level of such support, until 72 hours after notifying the congressional committees specified in subsection (i) of the use of such authority with respect to that operation or such change in scope or funding level.

''(3) CONTENT.—Notifications required under this subsection shall include the following information:

''(A) The type of support provided or to be provided to United States special operations forces.

''(B) The type of support provided or to be provided to the recipient of the funds.

''(C) The intended duration of the support.

''(D) The amount obligated under the authority to provide support.'';

(3) by striking subsection (f) and inserting the following new subsection (f):

''(f) ANNUAL REPORT.—Not later than 30 days after the close of each fiscal year during which subsection (a) is in effect, the Secretary of Defense shall submit to the congressional committees specified in subsection (i) a report on support provided under that subsection during that fiscal year. Each such report shall include the following information:

''(1) A description of supported operations.

''(2) A summary of operations.

''(3) The type of recipients that received support, identified by authorized category (foreign forces, irregular forces, groups, or individuals).

''(4) The total amount obligated in the previous fiscal year, including budget details.

''(5) The total amount obligated in prior fiscal years.

''(6) The intended duration of support.

''(7) A description of support or training provided to the recipients of support.

''(8) A value assessment of the operational support provided.''; and

(4) by adding at the end the following new subsection:

''(i) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in this subsection are the following:

''(1) The congressional defense committees.

''(2) The Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

''(3) The Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.''.

SA 1734. Mr. BURRIS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROTECTION OF CULTURAL PROPERTY.

(a) AMENDMENT TO TITLE 28.—Section 1611 of title 28, United States Code, is amended by inserting at the end the following:

''(d)(1) Notwithstanding any other provision of law, including section 1610 of this title or section 201 of the Terrorism Risk Insurance Act of 2002 (Pub. L. No. 107-297; 116 Stat. 2337), the property of a foreign state or of an agency or instrumentality of a foreign state shall be immune from attachment and from execution if—

''(A) the property is cultural property, as defined in section 302(6) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601(6));

''(B) the property first came into the United States before January 12, 1983 (the date of enactment of the Convention on Cultural Property Implementation Act, Pub. L. No. 97-446); and

''(C) the property is in the possession, custody, or control of any United States organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 or of any United States educational institution, as defined in section 101(a) of the Higher Education Act of 1965.

''(2) In any proceeding involving the attachment or execution of property alleged to be property of a foreign state or of any agency or instrumentality of a foreign state, the immunity of the property from attachment or execution may be raised by any party that has or claims ownership, possession, custody, or control over such property, whether or not the foreign state or agency or instrumentality of a foreign state to which the property allegedly belongs appears or asserts a claim of immunity.

''(3) The immunity of property under this subsection from attachment and execution shall be broadly construed.''.

(b) AMENDMENT TO TERRORISM RISK INSURANCE ACT.—Section 201(d)(2)(B) of the Terrorism Risk Insurance Act of 2002 (P.L. 107–297; 28 U.S.C. 1610 note) is amended—

(1) in clause (i), by striking ''or'' after the semicolon;

(2) in clause (ii), by striking the period and inserting ''; or''; and

(3) by inserting at the end the following:

''(iii)(I) is cultural property, as defined in section 302(6) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601(6));

''(II) first came into the United States before January 12, 1983 (the date of enactment of the Convention on Cultural Property Implementation Act (P. L. 97-446); and

''(III) is in the possession, custody, or control of any United States organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 or of any United States educational institution, as defined in section 101(a) of the Higher Education Act of 1965.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply to any proceeding pending on or after the date of the enactment of this Act.

SA 1735. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, between lines 14 and 15, insert the following:

SEC. 1083. SENSE OF CONGRESS ON MANNED AIRBORNE IRREGULAR WARFARE PLATFORMS.

It is the sense of Congress that the Secretary of Defense should, with regard to the development of manned airborne irregular warfare platforms, coordinate requirements for such weapons systems with the military services, including the reserve components.

SA 1736. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 429, between lines 8 and 9, insert the following:

SEC. 1073. REPORT ON ESTABLISHMENT OF ARCTIC DEEP WATER PORT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Defense, in consultation with the Commandant of the Coast Guard, shall conduct a study on the feasibility and potential of establishing a deep water sea port in the Arctic to protect and advance strategic United States interests within the evolving and ever more important Arctic region.

(2) SCOPE.—The study required under paragraph (1) shall address the following issues:

(A) The capability that such a port would provide.

(B) Potential and optimum locations for such a port.

(C) Resources needed to establish such a port.

(D) The time frame needed to establish such a port.

(E) The infrastructure required to support such a port.

(F) Any other issues the Secretary determines necessary to complete the study.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the findings of the study conducted under subsection (a).

SA 1737. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XII, add the following:

SEC. 1222. REPORT ON UNIQUE REQUIREMENTS FOR UNMANNED AIRCRAFT SYSTEMS IN AFGHANISTAN.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on whether the Unmanned Aircraft Systems currently in use by United States Armed Forces in the Afghanistan theater of operations are fully meeting current operational and tactical requirements.

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) An inventory and explanation of any unique physical and environmental conditions of the Afghanistan theater of operations that may adversely affect Unmanned Aircraft Systems operations in Afghanistan, including terrain and weather.

(2) An assessment of the impact of the conditions referred to in paragraph (1) on the operation of Unmanned Aircraft Systems by United States Armed Forces in Afghanistan.

(3) A summary of the current Unmanned Aircraft Systems requirements for United States Armed Forces in Afghanistan at the tactical and operational level.

(4) An assessment of the ability of current and planned Joint Unmanned Aircraft Systems category Group 1 and Group 2 vehicles to fully meet these requirements, based at least in part on after-action reviews of military operations in Afghanistan in which the Unmanned Aircraft Systems were employed.

(5) A specific determination as to whether those Unmanned Aircraft Systems currently in use are fully meeting the Unmanned Aircraft Systems requirements for company-sized and smaller units operating at locations separate and independent from their headquarters.

(6) An assessment of the ability of the current Group 1 Unmanned Aircraft Systems to perform required missions within the areas of operation described in paragraph (5).

SA 1738. Mr. CASEY (for himself and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ANNUAL COUNTERTERRORISM STATUS REPORTS.

(a) SHORT TITLE.—This section may be cited as the ''Success in Countering Al Qaeda Reporting Requirements Act of 2009''.

(b) ANNUAL COUNTERTERRORISM STATUS REPORTS.—

(1) IN GENERAL.—Not later than July 31, 2010, and every July 31 thereafter, the President shall submit a report, to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Armed Services of the Senate, the Committee on Armed Services of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives, which contains, for the most recent 12-month period, a review of the counterterrorism strategy of the United States Government, including—

(A) a detailed assessment of the scope, status, and progress of United States counterterrorism efforts in fighting Al Qaeda and its related affiliates and undermining long-term support for violent extremism;

(B) a judgment on the geographical region in which Al Qaeda and its related affiliates pose the greatest threat to the national security of the United States;

(C) a judgment on the adequacy of interagency integration of the counterterrorism programs and activities of the Department of Defense, the United States Special Operations Command, the Central Intelligence Agency, the Department of State, the Department of the Treasury, the Department of Homeland Security, the Department of Justice, and other Federal departments and agencies;

(D) an evaluation of the extent to which the counterterrorism efforts of the United States correspond to the plans developed by the National Counterterrorism Center and the goals established in overarching public statements of strategy issued by the executive branch;

(E) a determination of whether the National Counterterrorism Center exercises the authority and has the resources and expertise required to fulfill the interagency strategic and operational planning role described in section 119(j) of the National Security Act of 1947 (50 U.S.C. 404o), as added by section 1012 of the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458);

(F) a description of the efforts of the United States Government to combat Al Qaeda and its related affiliates and undermine violent extremist ideology, which shall include—

(i) a specific list of the President's highest global counterterrorism priorities;

(ii) the degree of success achieved by the United States, and remaining areas for progress, in meeting the priorities described in clause (i); and

(iii) efforts in those countries in which the President determines that—

(I) Al Qaeda and its related affiliates have a presence; or

(II) acts of international terrorism have been perpetrated by Al Qaeda and its related affiliates;

(G) a specific list of United States counterterrorism efforts, and the specific status and

achievements of such efforts, through military, financial, political, intelligence, paramilitary, and law enforcement elements, relating to—

(i) bilateral security and training programs;

(ii) law enforcement and border security;

(iii) the disruption of terrorist networks; and

(iv) the denial of terrorist safe havens and sanctuaries;

(H) a description of United States Government activities to counter terrorist recruitment and radicalization, including—

(i) strategic communications;

(ii) public diplomacy;

(iii) support for economic development and political reform; and

(iv) other efforts aimed at influencing public opinion;

(I) United States Government initiatives to eliminate direct and indirect international financial support for the activities of terrorist groups;

(J) a cross-cutting analysis of the budgets of all Federal Government agencies as they relate to counterterrorism funding to battle Al Qaeda and its related affiliates abroad, including—

(i) the source of such funds; and

(ii) the allocation and use of such funds;

(K) an analysis of the extent to which specific Federal appropriations—

(i) have produced tangible, calculable results in efforts to combat and defeat Al Qaeda, its related affiliates, and its violent ideology; or

(ii) contribute to investments that have expected payoffs in the medium- to long-term;

(L) statistical assessments, including those developed by the National Counterterrorism Center, on the number of individuals belonging to Al Qaeda and its related affiliates that have been killed, injured, or taken into custody as a result of United States counterterrorism efforts; and

(M) a concise summary of the methods used by National Counterterrorism Center and other elements of the United States Government to assess and evaluate progress in its overall counterterrorism efforts, including the use of specific measures, metrics, and indices.

(2) INTERAGENCY COOPERATION.—In preparing a report under this subsection, the President shall include relevant information maintained by—

(A) the National Counterterrorism Center and the National Counterproliferation Center;

(B) Department of Justice, including the Federal Bureau of Investigation;

(C) the Department of State;

(D) the Department of Defense;

(E) the Department of Homeland Security;

(F) the Department of the Treasury;

(G) the Office of the Director of National Intelligence,

(H) the Central Intelligence Agency;

(I) the Office of Management and Budget;

(J) the United States Agency for International Development; and

(K) any other Federal department that maintains relevant information.

(3) REPORT CLASSIFICATION.—Each report required under this subsection shall be—

(A) submitted in an unclassified form, to the maximum extent practicable; and

(B) accompanied by a classified appendix, as appropriate.

SA 1739. Mr. HATCH (for himself, Mr. WEBB, Mr. BENNETT, Mr. VOINOVICH, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title X, add the following:

SEC. 1083. FEDERAL EMPLOYEES RETIREMENT SYSTEM AGE AND RETIREMENT TREATMENT FOR CERTAIN RETIREES OF THE ARMED FORCES.

(a) INCREASE IN MAXIMUM AGE LIMIT FOR POSITIONS SUBJECT TO FERS.—

(1) LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS.—Section 3307(e) of title 5, United States Code, is amended—

(A) by striking ''(e) The'' and inserting ''(e)(1) Except as provided in paragraph (2), the''; and

(B) by adding at the end the following:

''(2) The maximum age limit for an original appointment to a position as a firefighter or law enforcement officer (as defined by section 8401(14) or (17), respectively) shall be 47 years of age, in the case of an individual who on the effective date of such appointment is eligible to receive retired pay or retainer pay for military service, or pension or compensation from the Department of Veterans Affairs instead of such retired or retainer pay.''.

(2) OTHER POSITIONS.—The maximum age limit for an original appointment to a position as a member of the Capitol Police or Supreme Court Police, nuclear materials courier (as defined under section 8401(33) of title 5, United States Code), or customs and border protection officer (as defined in section 8401(36) of title 5, United States Code) shall be 47 years of age, in the case of an individual who on the effective date of such appointment is eligible to receive retired pay or retainer pay for military service, or pension or compensation from the Department of Veterans Affairs instead of such retired or retainer pay.

(b) ELIGIBILITY FOR ANNUITY.—Section 8412(d) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by adding ''or'' at the end; and

(3) by inserting after paragraph (2) the following:

''(3) after becoming 57 years of age and completing 10 years of service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, customs or border protection officer, or any combination of such service totaling 10 years, if such employee—

''(A) is originally appointed to a position as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, or customs and border protection officer on or after the effective date of this paragraph under section 2(e) of the Federal Employee Retirement Treatment Act for Military Retirees Act of 2009; and

''(B) on the date that original appointment met the requirements of section 3307(e)(2) of this title or section 2(a)(2) of the Federal Employee Retirement Treatment Act for Military Retirees Act of 2009.''.

(c) MANDATORY SEPARATION.—Section 8425 of title 5, United States Code, is amended—

(1) in subsection (b)(1), in the first sentence, by inserting '', except that a law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer eligible for retirement under 8412(d)(3) shall be separated from service on the last day of the month in which that employee becomes 57 years of age'' before the period;

(2) in subsection (c), in the first sentence, by inserting '', except that a member of the Capitol Police eligible for retirement under 8412(d)(3) shall be separated from service on the last day of the month in which that employee becomes 57 years of age'' before the period; and

(3) in subsection (d), in the first sentence, by inserting '', except that a member of the Supreme Court Police eligible for retirement under 8412(d)(3) shall be separated from service on the last day of the month in which that employee becomes 57 years of age'' before the period.

(d) COMPUTATION OF BASIC ANNUITY.—Section 8415(d) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''total service as'' and inserting ''civilian service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, customs and border protection officer, or air traffic controller that, in the aggregate,''; and

(2) in paragraph (2), by striking ''so much of such individual's total service as exceeds 20 years'' and inserting ''the remainder of such individual's total service''.

(e) EFFECTIVE DATE.—This section (including the amendments made by this section) shall take effect 60 days after the date of the enactment of this Act and shall apply to appointments made on or after that effective date.

SA 1740. Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, between lines 14 and 15, insert the following:

SEC. 1083. PLAN FOR SUSTAINMENT OF LAND-BASED SOLID ROCKET MOTOR INDUSTRIAL BASE.

(a) IN GENERAL.—The Secretary of Defense shall review and establish a plan to sustain the solid rocket motor industrial base, including the ability to maintain and sustain currently deployed strategic and missile defense systems and to maintain an intellectual and engineering capacity to support next generation rocket motors, as needed.

(b) SUBMISSION OF PLAN.—Not later than March 1, 2010, the Secretary of Defense shall submit to the congressional defense committees the plan required under subsection (a), together with an explanation of how fiscal year 2010 funds will be used to sustain and support the plan and a description of the funding in the future years defense program plan to support the plan.

SA 1741. Mr. RISCH (for himself, Mr. CRAPO, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title III, add the following:

SEC. 342. REPORT ON STATUS OF AIR NATIONAL GUARD AND AIR FORCE RESERVE.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of the Air Force, the Chief of the National Guard Bureau, the Director of the Air National Guard, the Chief of the Air Force Reserve, and such other officials as the Secretary of Defense considers appropriate, shall submit to Congress a report on—

(1) the status of the Air National Guard and the Air Force Reserve; and

(2) the plans of the Department of Defense to ensure that the Air National Guard and the Air Force Reserve remain ready to meet the requirements of the Air Force and the combatant commands and for homeland defense.

SA 1742. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end subtitle H of title X, add the following:

SEC. 1083. ADDITIONAL MEMBERS AND DUTIES FOR INDEPENDENT PANEL TO ASSESS THE QUADRENNIAL DEFENSE REVIEW.

(a) ADDITIONAL MEMBERS.—

(1) IN GENERAL.—For purposes of conducting the assessment of the 2009 quadrennial defense review under section 118 of title 10, United States Code (in this subsection referred to as the ''2009 QDR''), the independent panel established under subsection (f) of such section (in this section referred to as the ''Panel'') shall include four additional members to be appointed as follows:

(A) One by the chairman of the Committee on Armed Services of the House of Representatives.

(B) One by the chairman of the Committee on Armed Services of the Senate.

(C) One by the ranking member of the Committee on Armed Services of the House of Representatives.

(D) One by the ranking member of the Committee on Armed Services of the Senate.

(2) PERIOD OF APPOINTMENT; VACANCIES.—Any vacancy in an appointment to the Panel under paragraph (1) shall be filled in the same manner as the original appointment.

(b) ADDITIONAL DUTIES OF PANEL FOR 2009 QDR.—In addition to the duties of the Panel under section 118(f) of title 10, United States Code, the Panel shall, with respect to the 2009 QDR—

(1) conduct an independent assessment of a variety of possible force structures of the Armed Forces, including the force structure identified in the report of the 2009 QDR; and

(2) made any recommendations it considers appropriate for consideration.

(c) REPORT OF SECRETARY OF DEFENSE.—Not later than 30 days after the Panel submits its report with respect to the 2009 QDR under section 118(f)(2) of title 10, United States Code, the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall submit to the congressional defense committees any comments of the Secretary on the report of the Panel.

(d) TERMINATION.—This provisions of this section shall terminate on the day that is 45 days after the date on which the Panel submits its report with respect to the 2009 QDR under section 118(f)(2) of title 10, United States Code.

SA 1743. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1232. SENSE OF CONGRESS ON THE NAVAL AFRICA PARTNERSHIP STATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States recognized the need for improving maritime safety and security in West and Central Africa and the Gulf of Guinea by implementing the Naval Africa Partnership Station.

(2) According to the International Maritime Bureau, piracy around the world doubled in the first 6 months of 2009 as compared to the first 6 months of 2008, to 114 from 240 incidents.

(3) The rise in attacks is mainly due to piracy off the coast of the Horn of Africa, specifically in the Gulf of Aden, with attacks originating from Somalia doubling since 2007.

(4) With more than 30,000 vessels transiting the Gulf of Aden each year, these attacks are taking place in a vast area of more than 1,000,000 square nautical miles.

(5) Instability and piracy from Somalia affects not only neighboring African countries such as Ethiopia, Djibouti, and Kenya, but also affects the international community due to the increased insecurity of the region and terrorizing ships in the highly transited Gulf of Aden.

(6) African countries have become more vulnerable as Al Qaeda has infiltrated into the Horn of Africa threatening the stability in the region and fueling international terrorist growth and activities. It has been reported that terrorists' networks in Somalia, Eritrea, and the Ogaden region of Ethiopia are working together and increasing their capability.

(7) The Naval Africa Partnership Station is working collaboratively with agencies and organizations from Africa, the United States, and Europe to provide naval security for coastal nations in West and Central Africa and in the Gulf of Guinea.

(8) The Naval Africa Partnership Station launched its first mission in November 2007. Since that time, the Station has trained thousands of military personnel in security operation, search and rescue operations, law enforcement, medical skills, and maritime maintenance.

(9) These programs have proved to be vital resources in aiding developing countries in the professionalization of their militaries, fighting terrorism, and providing resources for emergency situations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should continue to develop and support the Naval Africa Partnership Station by ensuring adequate funding and resources to promote national security interests of the United States and maritime safety and security in Africa.

SA 1744. Mr. LIEBERMAN (for himself, Mr. SESSIONS, Mr. INHOFE, Mr. VITTER, Mr. MARTINEZ, Mr. KYL, Mr. BEGICH, Mr. MCCAIN, Mr. NELSON of Nebraska, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title II, add the following:

SEC. 245. SENSE OF SENATE ON AND RESERVATION OF FUNDS FOR DEVELOPMENT AND DEPLOYMENT OF MISSILE DEFENSE SYSTEMS IN EUROPE.

(a) FINDINGS.—The Senate makes the following findings:

(1) In the North Atlantic Treaty Organization (NATO) Bucharest Summit Declaration of April 3, 2008, the Heads of State and Government participating in the meeting of the North Atlantic Council declared that ''[b]allistic missile proliferation poses an increasing threat to Allies' forces, territory and populations. Missile defence forms part of a broader response to counter this threat. We therefore recognize the substantial contribution to the protection of Allies from long-range ballistic missiles to be provided by the planned deployment of European-based United States missile defence assets''.

(2) The Bucharest Summit Declaration also stated that ''[b]earing in mind the principle of the indivisibility of Allied security as well as NATO solidarity, we task the Council in Permanent Session to develop options for a comprehensive missile defence architecture to extend coverage to all Allied territory and populations not otherwise covered by the United States system for review at our 2009 Summit, to inform any future political decision''.

(3) In the Bucharest Summit Declaration, the North Atlantic Council also reaffirmed to Russia that ''current, as well as any future, NATO Missile Defence efforts are intended to better address the security challenges we all face, and reiterate that, far from posing a threat to our relationship, they offer opportunities to deepen levels of cooperation and stability''.

(4) In the Strasbourg/Kehl Summit Declaration of April 4, 2009, the heads of state and government participating in the meeting of the North Atlantic Council reaffirmed ''the conclusions of the Bucharest Summit about missile defense,'' and declared that ''we judge that missile threats should be addressed in a prioritized manner that includes consideration of the level of imminence of the threat and the level of acceptable risk''.

(5) Iran is rapidly developing its ballistic missile capabilities, including its inventory of short-range and medium-range ballistic missiles that can strike portions of Eastern and Southern North Atlantic Treaty Organization European territory, as well as the pursuit of long-range ballistic missiles that could reach Europe or the United States.

(6) On July 8, 2008, the Government of the United States and the Government of the Czech Republic signed an agreement to base a radar facility in the Czech Republic that is part of a proposed missile defense system to protect Europe and the United States against a potential future Iranian long-range ballistic missile threat.

(7) On August 20, 2008, the United States and the Republic of Poland signed an agreement concerning the deployment of ground-based ballistic missile defense interceptors in the territory of the Republic of Poland.

(8) Section 233 of the Duncan Hunter National Defense Authorization Act for Fiscal

Year 2009 (Public Law 110–417; 122 Stat. 4393; 10 U.S.C. 2431 note) establishes conditions for the availability of funds for procurement, construction, and deployment of the planned missile defense system in Europe, including that the host nations must ratify any missile defense agreements with the United States and that the Secretary of Defense must certify that the system has demonstrated the ability to accomplish the mission.

(9) On April 5, 2009, President Barack Obama, speaking in Prague, Czech Republic, stated, ''As long as the threat from Iran persists, we will go forward with a missile defense system that is cost-effective and proven. If the Iranian threat is eliminated, we will have a stronger basis for security, and the driving force for missile defense construction in Europe will be removed.''.

(10) On June 16, 2009, Deputy Secretary of Defense William Lynn testified before the Committee on Armed Services of the Senate that the United States Government is reviewing its options for developing and deploying operationally effective, cost-effective missile defense capabilities to Europe against potential future Iranian missile threats, in addition to the proposed deployment of a missile defense system in Poland and the Czech Republic.

(11) On July 9, 2009, General James Cartwright, the Vice Chairman of the Joint Chiefs of Staff, testified before the Committee on Armed Services of the Senate that the Department of Defense was considering some 40 different missile defense architecture options for Europe that could provide a ''regional defense capability to protect the nations'' of Europe, and a ''redundant capability that would assist in protecting the United States,'' and that the Department was considering ''what kind of an architecture best suits the defense of the region, the defense of the homeland, and the regional stability''.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the United States Government should continue developing and planning for the proposed deployment of elements of a Ground-based Midcourse Defense (GMD) system, including a midcourse radar in the Czech Republic and Ground-Based Interceptors in Poland, consistent with section 233 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009;

(2) in conjunction with the continued development of the planned Ground-based Midcourse Defense system, the United States should work with its North Atlantic Treaty Organization allies to explore a range of options and architectures to provide missile defenses for Europe and the United States against current and future Iranian ballistic missile capabilities;

(3) any alternative system that the United States Government considers deploying in Europe to provide for the defense of Europe and a redundant defense of the United States against future long-range Iranian missile threats should be at least as capable and cost-effective as the proposed European deployment of the Ground-based Midcourse Defense system; and

(4) any missile defense capabilities deployed in Europe should, to the extent practical, be interoperable with United States and North Atlantic Treaty Organization missile defense systems.

(c) RESERVATION OF FUNDS FOR MISSILE DEFENSE SYSTEMS.—

(1) IN GENERAL.—Of the funds authorized to be appropriated or otherwise made available for fiscal years 2009 and 2010 for the Missile Defense Agency for the purpose of developing missile defenses in Europe, $353,100,000 shall be available only for the purposes described in paragraph (2).

(2) USE OF FUNDS.—The purposes described in this paragraph are the following:

(A) Research, development, test, and evaluation of—

(i) the proposed midcourse radar element of the Ground-based Midcourse Defense system in the Czech Republic; and

(ii) the proposed long-range missile defense interceptor site element of such defense system in Poland.

(B) Research, development, test, and evaluation, procurement, construction, or deployment of other missile defense systems designed to protect Europe, and the United States in the case of long-range missile threats, from the threats posed by current and future Iranian ballistic missiles of all ranges, if the Secretary of Defense submits to the congressional defense committees a report certifying that such systems are expected to be—

(i) consistent with the direction from the North Atlantic Council to address ballistic missile threats to Europe and the United States in a prioritized manner that includes consideration of the imminence of the threat and the level of acceptable risk;

(ii) operationally effective and cost-effective in providing protection for Europe, and the United States in the case of long-range missile threats, against current and future Iranian ballistic missile threats; and

(iii) interoperable, to the extent practical, with other components of missile defense and complementary to the missile defense strategy of the North Atlantic Treaty Organization.

(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting or preventing the Department of Defense from pursuing the development or deployment of operationally effective and cost-effective ballistic missile defense systems in Europe.

SA 1745. Mr. LEAHY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 904. STATE CONTROL OF FEDERAL MILITARY FORCES ENGAGED IN ACTIVITIES WITHIN THE STATES AND POSSESSIONS.

(a) IN GENERAL.—Part I of subtitle A of title 10, United States Code, is amended by inserting after chapter 15 the following new chapter:

''CHAPTER 16—CONTROL OF THE ARMED FORCES IN ACTIVITIES WITHIN THE STATES AND POSSESSIONS

''Sec.
''341. Tactical control of the armed forces engaged in activities within the States and possessions: emergency response activities.

''§ 341. Tactical control of the armed forces engaged in activities within the States and possessions: emergency response activities

''(a) IN GENERAL.—The Secretary of Defense shall prescribe in regulations policies and procedures to assure that tactical control of the armed forces on active duty within a State or possession is vested in the governor of the State or possession, as the case may be, when such forces are engaged in a domestic operation, including emergency response, within such State or possession.

''(b) DISCHARGE THROUGH JOINT FORCE HEADQUARTERS.—The policies and procedures required under subsection (a) shall provide for the discharge of tactical control by the governor of a State or possession as described in that subsection through the Joint Force Headquarters of the National Guard in the State or possession, as the case may be, acting through the officer of the National Guard in command of the Headquarters.

''(c) POSSESSIONS DEFINED.—Notwithstanding any provision of section 101(a) of this title, in this section, the term 'possessions' means the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.''.

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 10, United States Code, and at the beginning of part I of subtitle A of such title, are each amended by inserting after the item relating to chapter 15 the following new item:

''16. Control of the Armed Forces in Activities Within the States and Possessions ..... 341''.

SA 1746. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

SEC. 125. AC–130 GUNSHIPS.

(a) REPORT ON REDUCTION IN SERVICE LIFE IN CONNECTION WITH ACCELERATED DEPLOYMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force, in consultation with the United States Special Operations Command, shall submit to the congressional defense committees an assessment of the reduction in the service life of AC–130 gunships of the Air Force as a result of the accelerated deployments of such gunships that are anticipated during the seven- to ten-year period beginning with the date of the enactment of this Act, assuming that operating tempo continues at a rate per year of the average of their operating rate for the last five years.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An estimate by series of the maintenance costs for the AC–130 gunships during the period described in subsection (a), including any major airframe and engine overhauls of such aircraft anticipated during that period.

(2) A description by series of the age, serviceability, and capabilities of the armament systems of the AC–130 gunships.

(3) An estimate by series of the costs of modernizing the armament systems of the AC–130 gunships to achieve any necessary capability improvements.

(4) A description by series of the age and capabilities of the electronic warfare systems of the AC–130 gunships, and an estimate of the cost of upgrading such systems during that period to achieve any necessary capability improvements.

(5) A description by series of the age of the avionics systems of the AC–130 gunships, and an estimate of the cost of upgrading such systems during that period to achieve any necessary capability improvements.

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) ANALYSIS OF ALTERNATIVES.—The Secretary of the Air Force, in consultation with the United States Special Operations Command, shall conduct an analysis of alternatives for any gunship modernization requirements identified by the 2009 quadrennial defense review under section 118 of title 10, United States Code. The results of the analysis of alternatives shall be provided to the congressional defense committees not later than 18 months after the completion of the 2009 quadrennial defense review.

SA 1747. Mr. LEAHY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 904. ENHANCEMENT OF AUTHORITIES RELATING TO THE UNITED STATES NORTHERN COMMAND AND OTHER COMBATANT COMMANDS.

(a) COMMANDS RESPONSIBLE FOR SUPPORT TO CIVIL AUTHORITIES IN THE UNITED STATES.—The United States Northern Command and the United States Pacific Command shall be the combatant commands of the Armed Forces that are principally responsible for the support of civil authorities in the United States by the Armed Forces.

(b) DISCHARGE OF RESPONSIBILITY.—In discharging the responsibility set forth in subsection (a), the Commander of the United States Northern Command and the Commander of the United States Pacific Command shall each—

(1) in consultation with and acting through the Chief of the National Guard Bureau and the Joint Force Headquarters of the National Guard of the State or States concerned, assist the States in the employment of the National Guard under State control, including National Guard operations conducted in State active duty or under title 32, United States Code; and

(2) facilitate the deployment of the Armed Forces on active duty under title 10, United States Code, as necessary to augment and support the National Guard in its support of civil authorities when National Guard operations are conducted under State control, whether in State active duty or under title 32, United States Code.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) MEMORANDUM REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau shall, with the approval of the Secretary of Defense, jointly enter into a memorandum of understanding setting forth the operational relationships, and individual roles and responsibilities, during responses to domestic emergencies among the United States Northern Command, the United States Pacific Command, and the National Guard Bureau.

(2) MODIFICATION.—The Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau may from time to time modify the memorandum of understanding under this subsection to address changes in circumstances and for such other purposes as the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau jointly consider appropriate. Each such modification shall be subject to the approval of the Secretary of Defense.

(d) AUTHORITY TO MODIFY ASSIGNMENT OF COMMAND RESPONSIBILITY.—Nothing in this section shall be construed as altering or limiting the power of the President or the Secretary of Defense to modify the Unified Command Plan in order to assign all or part of the responsibility described in subsection (a) to a combatant command other than the United States Northern Command or the United States Pacific Command.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of aiding the expeditious implementation of the authorities and responsibilities in this section.

SA 1748. Mr. LEAHY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 904. REQUIREMENTS RELATING TO NATIONAL GUARD OFFICERS IN CERTAIN COMMAND POSITIONS.

(a) COMMANDER OF ARMY NORTH COMMAND.—The officer serving in the position of Commander, Army North Command, shall be an officer in the Army National Guard of the United States.

(b) COMMANDER OF AIR FORCE NORTH COMMAND.—The officer serving in the position of Commander, Air Force North Command, shall be an officer in the Air National Guard of the United States.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in assigning officers to the command positions specified in subsections (a) and (b), the President should afford a preference in assigning officers in the Army National Guard of the United States or Air National Guard of the United States, as applicable, who have served as the adjutant general of a State.

SA 1749. Mr. LEAHY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 904. REESTABLISHMENT OF POSITION OF VICE CHIEF OF THE NATIONAL GUARD BUREAU.

(a) REESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—Chapter 1011 of title 10, United States Code, is amended—

(A) by redesignating section 10505 as section 10505a; and

(B) by inserting after section 10504 the following new section 10505:

"§ 10505. Vice Chief of the National Guard Bureau

''(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

''(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

''(B) have had at least 10 years of federally recognized service in an active status in the National Guard; and

''(C) are in a grade above the grade of colonel.

''(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

''(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

''(B) The term of the Vice Chief of the National Guard Bureau shall end within a reasonable time (as determined by the Secretary of Defense) following the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

''(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

''(c) GRADE.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

''(d) FUNCTIONS AS ACTING CHIEF.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence of disability ceases.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1011 of such title is amended by striking the item relating to section 10505 and inserting the following new items:

''10505. Vice Chief of the National Guard Bureau.

''10505a. Director of the Joint Staff of the National Guard Bureau.''.

(b) CONFORMING AMENDMENT.—Section 10506(a)(1) of such title is amended by striking ''and the Director of the Joint Staff of the National Guard Bureau'' and inserting '', the Vice Chief of the National Guard Bureau, and the Director of the Joint Staff of the National Guard Bureau''.

SA 1750. Mr. LAUTENBERG (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, between line 14 and 15, insert the following:

SEC. 1083. SENSE OF THE SENATE RELATING TO PAY FOR EMPLOYEES SERVING AT JOINT BASE MCGUIRE/DIX/LAKEHURST.

It is the sense of Senate that for the purposes of determining any pay for an employee serving at Joint Base McGuire/Dix/Lakehurst—

(1) the pay schedules and rates to be used shall be the same as if such employee were serving in the pay locality, wage area, or other area of locality (whichever would apply to determine pay for the employees involved) that includes Ocean County, New Jersey; and

(2) the Office of Personnel Management should develop regulations to ensure pay parity for employees serving at Joint Bases.

SA 1751. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. NATIONAL D–DAY MEMORIAL STUDY.

(a) DEFINITIONS.—In this section:

(1) AREA.—The term ''Area'' means in the National D–Day Memorial in Bedford, Virginia.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the Area to evaluate the national significance of the Area and suitability and feasibility of designating the Area as a unit of the National Park System.

(2) CRITERIA.—In conducting the study required by paragraph (1), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System in section 8(c) of Public Law 91–383 (16 U.S.C. 1a-5(c)).

(3) CONTENTS.—The study required by paragraph (1) shall—

(A) determine the suitability and feasibility of designating the Area as a unit of the National Park System;

(B) include cost estimates for any necessary acquisition, development, operation, and maintenance of the Area; and

(C) identify alternatives for the management, administration, and protection of the Area.

(c) REPORT.—Section 8(c) of Public Law 91–383 (16 U.S.C. 1a-5(c)) shall apply to the conduct of the study required by this section, except that the study shall be submitted to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 3 years after the date on which funds are first made available for the study.

SA 1752. Mrs. BOXER (for herself and Mr. BOND) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, insert the following:

SEC. 713. REDUCTION OF MINIMUM DISTANCE OF TRAVEL FOR REIMBURSEMENT OF COVERED BENEFICIARIES OF THE MILITARY HEALTH CARE SYSTEM FOR TRAVEL FOR SPECIALTY HEALTH CARE.

(a) REDUCTION.—Section 1074i(a) of title 10, United States Code, is amended by striking ''100 miles'' and inserting ''50 miles''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act, and shall apply with respect to referrals for specialty health care made on or after such effective date.

(c) OFFSET.—The amount authorized to be appropriated by section 301(a)(5) for operation and maintenance for Defense-wide activities is hereby decreased by $14,000,000, with the amount of the decrease to be derived from unobligated balances.

SA 1753. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. 557. FULL ACCESS TO MENTAL HEALTH CARE FOR FAMILY MEMBERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVE WHO ARE DEPLOYED OVERSEAS.

(a) EXPANDED INITIATIVE TO INCREASE ACCESS TO MENTAL HEALTH CARE.—

(1) IN GENERAL.—The Secretary of Defense shall expand existing Department of Defense initiatives to increase access to mental health care for family members of members of the National Guard and Reserve deployed overseas during the periods of mobilization, deployment, and demobilization of such members of the National Guard and Reserve.

(2) ELEMENTS.—The expanded initiatives, which shall build upon and be consistent with ongoing efforts, shall include the following:

(A) Programs and activities to educate the family members of members of the National Guard and Reserve who are deployed overseas on potential mental health challenges connected with such deployment.

(B) Programs and activities to provide such family members with complete information on all mental health resources available to such family members through the Department of Defense and otherwise.

(C) Guidelines for mental health counselors at military installations in communities with large numbers of mobilized members of the National Guard and Reserve to expand the reach of their counseling activities to include families of such members in such communities.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and at such times as the Secretary deems appropriate thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on this section.

(2) ELEMENTS.—Each report shall include the following:

(A) A current assessment of the extent to which family members of members of the National Guard and Reserve who are deployed overseas have access to, and are utilizing, mental health care available under this section.

(B) A current assessment of the quality of mental health care being provided to family members of members of the National Guard and Reserve who are deployed overseas, and an assessment of expanding coverage for mental health care services under the TRICARE program to mental health care services provided at facilities currently outside the accredited network of the TRICARE program.

(C) Such recommendations for legislative or administration action as the Secretary considers appropriate in order to further assure full access to mental health care by family members of members of the National Guard and Reserve who are deployed overseas during the mobilization, deployment, and demobilization of such members of the National Guard and Reserve.

SA 1754. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

SEC. 125. C–130 AVIONICS MODERNIZATION PROGRAM.

Of the amounts authorized to be appropriated by section 103 for procurement for the Air Force, $209,500,000 is authorized to be appropriated for the C–130 Avionics Modernization Program (AMP) for AMP kit procurement and installation.

SA 1755. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, add the following:

SEC. _____. SURVIVOR BENEFIT PLAN ANNUITIES FOR SPECIAL NEEDS TRUSTS ESTABLISHED FOR THE BENEFIT OF DEPENDENT CHILDREN INCAPABLE OF SELF-SUPPORT.

(a) SPECIAL NEEDS TRUST AS ELIGIBLE BENEFICIARY.—

(1) IN GENERAL.—Subsection (a) of section 1450 of title 10, United States Code, is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

''(4) SPECIAL NEEDS TRUSTS FOR SOLE BENEFIT OF CERTAIN DEPENDENT CHILDREN.—Notwithstanding subsection (i), a supplemental or special needs trust established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the sole benefit of a dependent child considered disabled under section 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or physical incapacity.''.

(2) CONFORMING AMENDMENT.—Subsection (i) of such section is amended by inserting ''(a)(4) or'' after ''subsection''.

(b) REGULATIONS.—Section 1455(d) of such title is amended—

(1) in the subsection caption, by striking ''AND FIDUCIARIES'' and inserting '', FIDUCIARIES, AND SPECIAL NEEDS TRUSTS'';

(2) in paragraph (1)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(C) a dependent child incapable of self-support because of mental or physical incapacity for whom a supplemental or special needs trust has been established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)).'';

(3) in paragraph (2)—

(A) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

(B) by inserting after subparagraph (B) the following new subparagraph (C):

''(C) In the case of an annuitant referred to in paragraph (1)(C), payment of the annuity to the supplemental or special needs trust established for the annuitant.'';

(C) in subparagraph (D), as redesignated by subparagraph (A) of this paragraph, by striking ''subparagraphs (D) and (E)'' and inserting ''subparagraphs (E) and (F)''; and

(D) in subparagraph (H), as so redesignated—

(i) by inserting ''or (1)(C)'' after ''paragraph (1)(B)'' in the matter preceding clause (i);

(ii) in clause (i), by striking ''and'' at the end;

(iii) in clause (ii), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following new clause:

''(iii) procedures for determining when annuity payments to a supplemental or special needs trust shall end based on the death or marriage of the dependent child for which the trust was established.''; and

(4) in paragraph (3), by striking ''OR FIDUCIARY'' in the paragraph caption and inserting '', FIDUCIARY, OR TRUST''.

SA 1756. Mr. LAUTENBERG (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, between line 14 and 15, insert the following:

SEC. 1083. PAY PARITY FOR FEDERAL EMPLOYEES SERVING AT JOINT BASE MCGUIRE/DIX/LAKEHURST.

(a) IN GENERAL.—For purposes of any determination of pay for an employee serving at Joint Base McGuire/Dix/Lakehurst, the pay schedules and rates to be used shall be the same as if such employee were serving in the pay locality, wage area, or other area or locality (whichever would apply to determine pay for the employee involved) that includes Ocean County, New Jersey.

(b) DEFINITIONS.—For purposes of this section—

(1) the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code)—

(A) whose pay is determined under subchapter III or IV of chapter 53 of such title; or

(B) who is paid from nonappropriated funds of any instrumentality of the United States;

(2) the term ''pay locality'' refers to a pay locality under section 5302 of such title; and

(3) the term ''wage area'' refers to a wage area under section 5343 of such title.

(c) REGULATIONS.—The Office of Personnel Management may prescribe any regulations necessary to carry out this section.

(d) EFFECTIVE DATE.—This section shall apply with respect to pay for service performed in any pay period beginning on or after the date of the enactment of this Act or October 1, 2009, whichever is later.

SA 1757. Mr. KERRY (for himself, Mr. LEVIN, and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1232. REVIEW OF CONDUCT OF NORTH KOREA TO DETERMINE WHETHER NORTH KOREA SHOULD BE RE-LISTED AS A STATE SPONSOR OF TERRORISM.

(a) FINDINGS.—The Senate makes the following findings:

(1) On April 5, 2009, the Government of North Korea tested an intermediate range ballistic missile in violation of United Nations Security Council Resolutions 1695 (2006) and 1718 (2006).

(2) On April 5, 2009, President Barack Obama issued a statement on North Korea, stating that ''Preventing the proliferation of weapons of mass destruction and their means of delivery is a high priority for my administration'', and adding, ''North Korea has ignored its international obligations, rejected unequivocal calls for restraint, and further isolated itself from the community of nations''.

(3) On April 15, 2009, the Government of North Korea announced it was expelling international inspectors from its Yongbyon nuclear facility and ending its participation in the Six Party Talks for the Denuclearization of the Korean Peninsula.

(4) On May 25, 2009, the Government of North Korea conducted a second nuclear test, in disregard of United Nations Security Council Resolution 1718, which was issued in 2006 following the first such test and which demanded that North Korea not conduct any further nuclear tests or launches of a ballistic missile.

(5) The State Department's 2008 Human Rights Report on North Korea, issued on February 25, 2009, found that human rights conditions inside North Korea remained poor, prison conditions are harsh and life-threatening, and citizens were denied basic freedoms such as freedom of speech, press, assembly, religion, and association.

(6) Pursuant to section 102(b)(2)(E) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)(E)), President George W. Bush, on February 7, 2007, notified Congress that the United States Government would oppose the extension of any loan or financial or technical assistance to North Korea by any international financial institution and the prohibition on support for the extension of such loans or assistance remains in effect.

(7) On June 12, 2009, the United Nations Security Council passed Resolution 1874, condemning North Korea's nuclear test, imposing a sweeping embargo on all arms trade with North Korea, and requiring member states not to provide financial support or other financial services that could contribute to North Korea's nuclear-related or missile-related activities or other activities related to weapons of mass destruction.

(8) On July 15, 2009, the Sanctions Committee of the United Nations Security Council, pursuant to United Nations Security Council Resolution 1874, imposed a travel ban on five North Korean individuals and asset freezes on five more North Korean entities for their involvement in nuclear weapons and ballistic missile development programs, marking the first time the United Nations has imposed a travel ban on North Koreans.

(9) On June 10, 2008, the Government of North Korea issued a statement, subsequently conveyed directly to the United States Government, affirming that North Korea, ''will firmly maintain its consistent stand of opposing all forms of terrorism and any support to it and will fulfill its responsibility and duty in the struggle against terrorism.''.

(10) The June 10, 2008, statement by the Government of North Korea also pledged that North Korea would take ''active part in the international efforts to prevent substance, equipment and technology to be used for the production of nukes and biochemical and radioactive weapons from finding their ways to the terrorists and the organizations that support them''.

(11) On June 26, 2008, President George W. Bush certified that—

(A) the Government of North Korea had not provided any support for international terrorism during the preceding 6-month period; and

(B) the Government of North Korea had provided assurances that it will not support acts of international terrorism in the future.

(12) The President's June 26 certification concluded, based on all available information, that there was ''no credible evidence at this time of ongoing support by the DPRK for international terrorism'' and that ''there is no credible or sustained reporting at this time that supports allegations (including as cited in recent reports by the Congressional Research Service) that the DPRK has provided direct or witting support for Hezbollah, Tamil Tigers, or the Iranian Revolutionary Guard''.

(13) The State Department's Country Reports on Terrorism 2008, in a section on North Korea, state, ''The Democratic People's Republic of Korea (DPRK) was not known to have sponsored any terrorist acts since the bombing of a Korean Airlines flight in 1987.''.

(14) The Country Reports on Terrorism 2008 also state, ''A state that directs WMD resources to terrorists, or one from which enabling resources are clandestinely diverted, poses a grave WMD terrorism threat. Although terrorist organizations will continue to seek a WMD capability independent of state programs, the sophisticated WMD knowledge and resources of a state could enable a terrorist capability. State sponsors of terrorism and all nations that fail to live up to their international counterterrorism and nonproliferation obligations deserve greater scrutiny as potential facilitators of WMD terrorism.''.

(15) On October 11, 2008, the Secretary of State, pursuant to the President's certification, removed North Korea from the list of state sponsors of terrorism, on which North Korea had been placed in 1988.

(b) REPORT ON CONDUCT OF NORTH KOREA.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report examining the conduct of the Government of North Korea since June 26, 2008, based on all

available information, to determine whether North Korea meets the statutory criteria for listing as a state sponsor of terrorism. The report shall—

(1) present any credible evidence of support by the Government of North Korea for acts of terrorism, terrorists, or terrorist organizations;

(2) examine what steps the Government of North Korea has taken to fulfill its June 10, 2008, pledge to prevent weapons of mass destruction from falling into the hands of terrorists; and

(3) assess the effectiveness of re-listing North Korea as a state sponsor of terrorism as a tool to accomplish the objectives of the United States with respect to North Korea, including completely eliminating North Korea's nuclear weapons programs, preventing North Korean proliferation of weapons of mass destruction, and encouraging North Korea to abide by international norms with respect to human rights.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the conduct of North Korea constitutes a threat to the northeast Asian region and to international peace and security;

(2) if the United States determines that the Government of North Korea has provided assistance to terrorists or engaged in state sponsored acts of terrorism, the Secretary of State should immediately list North Korea as a state sponsor of terrorism;

(3) if the United States determines that the Government of North Korea has failed to fulfill its June 10, 2008, pledges, the Secretary of State should immediately list North Korea as a state sponsor of terrorism; and

(4) the United States should—

(A) vigorously enforce United Nations Security Council Resolutions 1718 (2006) and 1874 (2009) and other sanctions in place with respect to North Korea under United States law;

(B) urge all member states of the United Nations to fully implement the sanctions imposed by United Nations Security Council Resolutions 1718 and 1874; and

(C) consider the imposition of additional unilateral and multilateral sanctions against North Korea in furtherance of United States national security.

(d) STATE SPONSOR OF TERRORISM DEFINED.—For purposes of this section, the term ''state sponsor of terrorism'' means a country that has repeatedly provided support for acts of international terrorism for purposes of—

(1) section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.));

(2) section 40 of the Arms Export Control Act (22 U.S.C. 2780); or

(3) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

SA 1758. Mr. REED (for himself and Mr. WICKER) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 429 between lines 8 and 9, insert the following:

SEC. 1073. REPORT ON ENABLING CAPABILITIES FOR SPECIAL OPERATIONS FORCES.

(a) REPORT REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Commander of the United States Special Operations Command, jointly with the commanders of the combatant commands and the chiefs of the services, shall submit to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff a report on the availability of enabling capabilities to support special operations forces requirements.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

(1) An identification of the requirements for enabling capabilities for conventional forces and special operations forces globally, including current and projected needs in Iraq, Afghanistan, and other theaters of operation.

(2) A description of the processes used to prioritize and allocate enabling capabilities to meet the mission requirements of conventional forces and special operations forces.

(3) An identification and description of any shortfalls in enabling capabilities for special operations forces by function, region, and quantity, as determined by the Commander of the United States Special Operations Command and the commanders of the geographic combatant commands.

(4) An assessment of the current inventory of these enabling capabilities within the military departments and components and the United States Special Operations Command.

(5) An assessment of whether there is a need to create additional enabling capabilities by function and quantity.

(6) An assessment of the merits of creating additional enabling units, by type and quantity—

(A) within the military departments; and

(B) within the United States Special Operations Command.

(7) Recommendations for meeting the current and future enabling force requirements of the United States Special Operations Command, including an assessment of the increases in endstrength, equipment, funding, and military construction that would be required to support these recommendations.

(8) Any other matters the Commander of the United States Special Operations Command, the commanders of the combatant commands, and the chiefs of the services consider useful and relevant.

(c) REPORT TO CONGRESS.—Not later than 30 days after receiving the report required under subsection (a), the Secretary of Defense shall forward the report to the congressional defense committees with any additional comments the Secretary considers appropriate.

SA 1759. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

SEC. 202. ADDITIONAL FUNDING FOR B–52H MIL–STD–1760 DATA BUS INTERNAL WEAPONS BAY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE.—The amount authorized to be appropriated by section 201(a)(3) for Research, Development, Test, and Evaluation for the Air Force is hereby increased by $16,800,000, with the amount of the increase to be allocated to amounts available for the B–52H MIL–STD–1760 Data Bus Internal Weapons Bay (PE # 0101113F).

(b) OFFSET.—The amount authorized to be appropriated by section 201(a)(3) for Research, Development, Test, and Evaluation for the Air Force is hereby decreased by $16,800,000, with the amount of the decrease to be derived from amounts available for PE # 0101127F.

SA 1760. Mr. KYL (for himself, Mr. MCCONNELL, Mr. MCCAIN, Mr. INHOFE, Mr. SESSIONS, Mr. GRAHAM, Mr. VITTER, Mr. DEMINT, MR. RISCH, Mr. CORNYN, Mr. BARRASSO, Mr. LIEBERMAN, Mr. WICKER, and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

At the end of title XII, add the following:

SEC. 1232. LIMITATION ON FUNDS TO IMPLEMENT REDUCTIONS IN THE STRATEGIC NUCLEAR FORCES OF THE UNITED STATES PURSUANT TO ANY TREATY OR OTHER AGREEMENT WITH THE RUSSIAN FEDERATION.

(a) FINDINGS.—Congress makes the following findings:

(1) In the Joint Statement by President Dmitriy Medvedev of the Russian Federation and President Barack Obama of the United States of America after their meeting in London, England on April 1, 2009, the two Presidents agreed ''to pursue new and verifiable reductions in our strategic offensive arsenals in a step-by-step process, beginning by replacing the Strategic Arms Reduction Treaty with a new, legally-binding treaty''.

(2) At that meeting, the two Presidents instructed their negotiators to reach an agreement that ''will mutually enhance the security of the Parties and predictability and stability in strategic offensive forces, and will include effective verification measures drawn from the experience of the Parties in implementing the START Treaty''.

(3) Subsequently, on April 5, 2009, in a speech in Prague, the Czech Republic, President Obama proclaimed, ''Iran's nuclear and ballistic missile activity poses a real threat, not just to the United States, but to Iran's neighbors and our allies. The Czech Republic and Poland have been courageous in agreeing to host a defense against these missiles. As long as the threat from Iran persists, we will go forward with a missile defense system that is cost-effective and proven.''

(4) President Obama also said, ''As long as these [nuclear] weapons exist, the United States will maintain a safe, secure and effective arsenal to deter any adversary, and guarantee that defense to our allies, including the Czech Republic. But we will begin the work of reducing our arsenal.''

(b) LIMITATION.—Funds authorized to be appropriated by this Act or otherwise made available to the Department of Defense for fiscal year 2010 may not be obligated or expended to implement reductions in the strategic nuclear forces of the United States pursuant to any treaty or other agreement entered into between the United States and the Russian Federation on strategic nuclear forces after the date of enactment of this Act unless the President certifies to Congress that—

(1) the treaty or other agreement provides for sufficient mechanisms to verify compliance with the treaty or agreement;

(2) the treaty or other agreement does not place limitations on the ballistic missile defense systems, space capabilities, or advanced conventional weapons of the United States; and

(3) the fiscal year 2011 budget request for programs of the Department of Energy's National Nuclear Security Administration will be sufficiently funded—

(A) to maintain the reliability, safety, and security of the remaining strategic nuclear forces of the United States; and

(B) to modernize and refurbish the nuclear weapons complex.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the stockpiles of strategic and nonstrategic weapons of the United States and the Russian Federation.

(d) DEFINITIONS.—In this section:

(1) ADVANCED CONVENTIONAL WEAPONS.—The term ''advanced conventional weapons'' means any advanced weapons system that has been specifically designed not to carry a nuclear payload.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following committees:

(A) The Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

(B) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

SA 1761. Mr. KERRY (for himself, Mr. LUGAR, Mr. LEVIN, and Mr. WEBB) proposed an amendment to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1232. SENSE OF THE SENATE ON ENFORCEMENT AND IMPOSITION OF SANCTIONS WITH RESPECT TO NORTH KOREA; REVIEW TO DETERMINE WHETHER NORTH KOREA SHOULD BE RE-LISTED AS A STATE SPONSOR OF TERRORISM.

(a) FINDINGS.—The Senate makes the following findings:

(1) On April 5, 2009, the Government of North Korea tested an intermediate range ballistic missile in violation of United Nations Security Council Resolutions 1695 (2006) and 1718 (2006).

(2) On April 5, 2009, President Barack Obama issued a statement on North Korea, stating that ''Preventing the proliferation of weapons of mass destruction and their means of delivery is a high priority for my administration'', and adding, ''North Korea has ignored its international obligations, rejected unequivocal calls for restraint, and further isolated itself from the community of nations''.

(3) On April 15, 2009, the Government of North Korea announced it was expelling international inspectors from its Yongbyon nuclear facility and ending its participation in the Six Party Talks for the Denuclearization of the Korean Peninsula.

(4) On May 25, 2009, the Government of North Korea conducted a second nuclear test, in disregard of United Nations Security Council Resolution 1718, which was issued in 2006 following the first such test and which demanded that North Korea not conduct any further nuclear tests or launches of a ballistic missile.

(5) The State Department's 2008 Human Rights Report on North Korea, issued on February 25, 2009, found that human rights conditions inside North Korea remained poor, prison conditions are harsh and life-threatening, and citizens were denied basic freedoms such as freedom of speech, press, assembly, religion, and association.

(6) Pursuant to section 102(b)(2)(E) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)(E)), President George W. Bush, on February 7, 2007, notified Congress that the United States Government would oppose the extension of any loan or financial or technical assistance to North Korea by any international financial institution and the prohibition on support for the extension of such loans or assistance remains in effect.

(7) On June 12, 2009, the United Nations Security Council passed Resolution 1874, condemning North Korea's nuclear test, imposing a sweeping embargo on all arms trade with North Korea, and requiring member states not to provide financial support or other financial services that could contribute to North Korea's nuclear-related or missile-related activities or other activities related to weapons of mass destruction.

(8) On July 15, 2009, the Sanctions Committee of the United Nations Security Council, pursuant to United Nations Security Council Resolution 1874, imposed a travel ban on five North Korean individuals and asset freezes on five more North Korean entities for their involvement in nuclear weapons and ballistic missile development programs, marking the first time the United Nations has imposed a travel ban on North Koreans.

(9) On June 10, 2008, the Government of North Korea issued a statement, subsequently conveyed directly to the United States Government, affirming that North Korea, ''will firmly maintain its consistent stand of opposing all forms of terrorism and any support to it and will fulfill its responsibility and duty in the struggle against terrorism.''.

(10) The June 10, 2008, statement by the Government of North Korea also pledged that North Korea would take ''active part in the international efforts to prevent substance, equipment and technology to be used for the production of nukes and biochemical and radioactive weapons from finding their ways to the terrorists and the organizations that support them''.

(11) On June 26, 2008, President George W. Bush certified that—

(A) the Government of North Korea had not provided any support for international terrorism during the preceding 6-month period; and

(B) the Government of North Korea had provided assurances that it will not support acts of international terrorism in the future.

(12) The President's June 26 certification concluded, based on all available information, that there was ''no credible evidence at this time of ongoing support by the DPRK for international terrorism'' and that ''there is no credible or sustained reporting at this time that supports allegations (including as cited in recent reports by the Congressional Research Service) that the DPRK has provided direct or witting support for Hezbollah, Tamil Tigers, or the Iranian Revolutionary Guard''.

(13) The State Department's Country Reports on Terrorism 2008, in a section on North Korea, state, ''The Democratic People's Republic of Korea (DPRK) was not known to have sponsored any terrorist acts since the bombing of a Korean Airlines flight in 1987.''.

(14) The Country Reports on Terrorism 2008 also state, ''A state that directs WMD resources to terrorists, or one from which enabling resources are clandestinely diverted, poses a grave WMD terrorism threat. Although terrorist organizations will continue to seek a WMD capability independent of state programs, the sophisticated WMD knowledge and resources of a state could enable a terrorist capability. State sponsors of terrorism and all nations that fail to live up to their international counterterrorism and nonproliferation obligations deserve greater scrutiny as potential facilitators of WMD terrorism.''.

(15) On October 11, 2008, the Secretary of State, pursuant to the President's certification, removed North Korea from its list of state sponsors of terrorism, on which North Korea had been placed in 1988.

(b) REPORT ON CONDUCT OF NORTH KOREA.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report examining the conduct of the Government of North Korea since June 26, 2008, based on all available information, to determine whether North Korea meets the statutory criteria for listing as a state sponsor of terrorism. The report shall—

(1) present any credible evidence of support by the Government of North Korea for acts of terrorism, terrorists, or terrorist organizations;

(2) examine what steps the Government of North Korea has taken to fulfill its June 10, 2008, pledge to prevent weapons of mass destruction from falling into the hands of terrorists; and

(3) assess the effectiveness of re-listing North Korea as a state sponsor of terrorism as a tool to accomplish the objectives of the United States with respect to North Korea, including completely eliminating North Korea's nuclear weapons programs, preventing North Korean proliferation of weapons of mass destruction, and encouraging North Korea to abide by international norms with respect to human rights.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should—

(A) vigorously enforce United Nations Security Council Resolutions 1718 (2006) and 1874 (2009) and other sanctions in place with respect to North Korea under United States law;

(B) urge all member states of the United Nations to fully implement the sanctions imposed by United Nations Security Council Resolutions 1718 and 1874; and

(C) explore the imposition of additional unilateral and multilateral sanctions against North Korea in furtherance of United States national security;

(2) the conduct of North Korea constitutes a threat to the northeast Asian region and to international peace and security;

(3) if the United States determines that the Government of North Korea has provided assistance to terrorists or engaged in state sponsored acts of terrorism, the Secretary of State should immediately list North Korea as a state sponsor of terrorism; and

(4) if the United States determines that the Government of North Korea has failed to fulfill its June 10, 2008, pledges, the Secretary of State should immediately list North Korea as a state sponsor of terrorism.

(d) STATE SPONSOR OF TERRORISM DEFINED.—For purposes of this section, the term ''state sponsor of terrorism'' means a country that has repeatedly provided support for acts of international terrorism for purposes of—

(1) section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.));

(2) section 40 of the Arms Export Control Act (22 U.S.C. 2780); or

(3) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

SA 1762. Mrs. MCCASKILL (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title X, add the following:

SEC. 1083. CONTRACTING PROGRAMS.

(a) 8(a) PROGRAM.—Section 602(a) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended—

(1) by striking ''Section 8(a)(1)(D)'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), section 8(a)(1)(D)''; and

(2) by adding at the end the following:

''(2) DEPARTMENT OF DEFENSE CONTRACTS.—A contract opportunity for award by or on behalf of the Department of Defense under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) shall be awarded on the basis of competition restricted to eligible Program Participants that are owned and controlled by economically disadvantaged Indian tribes, as defined pursuant to paragraphs (4) and (13) of section 8(a) of the Small Business Act (15 U.S.C. 637(a)(4) and (13)), if—

''(A) there is a reasonable expectation that—

''(i) at least 2 eligible Program Participants that are owned and controlled by economically disadvantaged Indian tribes will submit offers; and

''(ii) the award can be made at a fair market price; and

''(B) the anticipated award price of the contract (including options) will exceed—

''(i) $5,500,000 in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; and

''(ii) $3,500,000 in the case of all other contract opportunities.

''(3) DISCRETION FOR CONTRACTING OFFICERS IN DEPARTMENT OF DEFENSE CONTRACTS.—Notwithstanding paragraph (2), for any contracting opportunity for award by or on behalf of the Department of Defense under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), the contracting officer may, in the discretion of the contracting officer, and if the contracting opportunity meets the requirements of such provision, award the contracting opportunity—

''(A) on the basis of a competition conducted in accordance with paragraph (2) of this subsection; or

''(B) on the basis of a competition conducted in accordance with section 8(a)(1)(D) of the Small Business Act (15 U.S.C. 637(a)(1)(D)).

''(4) RULES OF CONSTRUCTION.—

''(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the authority of a department or agency of the United States to award a contract opportunity offered for award that is above the thresholds identified in section 8(a)(1)(D)(i)(II) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)(II)) on the basis of competition conducted in accordance with section 8(a)(1)(D) of the Small Business Act (15 U.S.C. 637(a)(1)(D)).

''(B) AMOUNT OF THRESHOLDS.—The amount of the dollar thresholds under paragraph (2)(B) shall be construed to be the same as the thresholds under section 8(a)(1)(D)(i)(II) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)(II)), as adjusted in accordance with section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a).''.

(b) CONTRACTING BONUS.—Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) is amended—

(1) by striking ''Notwithstanding'' and inserting ''(a) Except as provided in subsection (b), and notwithstanding''; and

(2) by adding at the end the following:

''(b) Subsection (a) shall not apply if the subcontractor or supplier, including the Indian organization or Indian-owned economic enterprise that owns the subcontractor or supplier, is affiliated with the contractor.''.

SA 1763. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VII, add the following:

SEC. 724. PRESCRIPTION OF ANTIDEPRESSANTS FOR TROOPS SERVING IN IRAQ AND AFGHANISTAN.

(a) REPORT.—

(1) IN GENERAL.—Not later than June 30, 2010, and annually thereafter until June 30, 2015, the Secretary of Defense shall submit to Congress a report on the prescription of antidepressants and drugs to treat anxiety for troops serving in Iraq and Afghanistan.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) the numbers and percentages of troops that have served or are serving in Iraq and Afghanistan since January 1, 2005, who have been prescribed antidepressants or drugs to treat anxiety, including psychotropic drugs such as Selective Serotonin Reuptake Inhibitors (SSRIs); and

(B) the policies and patient management practices of the Department of Defense with respect to the prescription of such drugs.

(b) DEPARTMENT OF DEFENSE STUDY.—

(1) STUDY.—The Department of Defense shall contract with an independent entity to conduct a study on the potential relationship between the increased number of suicides and attempted suicides by members of the Armed Forces and the increased number of antidepressants, drugs to treat anxiety, other psychotropics, and other behavior modifying prescription medications being prescribed, including any combination or interactions of such prescriptions. The Department of Defense shall immediately make available to such contracting entity all data necessary to complete the study.

(2) REPORT ON FINDINGS.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the findings of the study conducted pursuant to paragraph (1).

SA 1764. Mr. SCHUMER (for himself, Mr. CHAMBLISS, Mr. NELSON of Nebraska, Mr. BENNETT, Mr. CORNYN, Mr. ISAKSON, Ms. CANTWELL, Mrs. SHAHEEN, Mr. BURRIS, Mr. VITTER, Mr. CASEY, Mr. PRYOR, Mr. BYRD, Mr. UDALL of New Mexico, Mrs. FEINSTEIN, Mr. DURBIN, Mrs. MURRAY, Mr. WARNER, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. CONRAD, Mr. BROWNBACK, Mr. SPECTER, Mr. WICKER, Mr. BURR, Mr. LIEBERMAN, Mr. ROBERTS, Mr. RISCH, Mrs. LINCOLN, Mr. THUNE, Mr. BOND, Mr. BAYH, Mr. NELSON of Florida, Mr. FRANKEN, Mr. ENSIGN, Mr. LEAHY, Mr. KENNEDY, Mr. WYDEN, Mr. CARDIN, Mr. BEGICH, Mrs. GILLIBRAND, Mr. INHOFE, Mr. COCHRAN, Mr. WEBB, Mr. ENZI, Mr. MERKLEY, Mr. CORKER, Mr. KERRY, Mr. GRASSLEY, Mr. GREGG, Mr. WHITEHOUSE, Mr. DEMINT, Mr. JOHANNS, Mr. COBURN, Mr. LUGAR, Ms. MURKOWSKI, Mr. TESTER, Mr. CRAPO, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 166, before line 18, insert the following:

Subtitle H—Military Voting

SEC. 581. SHORT TITLE.

This subtitle may be cited as the ''Military and Overseas Voter Empowerment Act''.

SEC. 582. FINDINGS.

Congress makes the following findings:

(1) The right to vote is a fundamental right.

(2) Due to logistical, geographical, operational and environmental barriers, military and overseas voters are burdened by many obstacles that impact their right to vote and register to vote, the most critical of which include problems transmitting balloting materials and not being given enough time to vote.

(3) States play an essential role in facilitating the ability of military and overseas voters to register to vote and have their ballots cast and counted, especially with respect to timing and improvement of absentee voter registration and absentee ballot procedures.

(4) The Department of Defense educates military and overseas voters of their rights under the Uniformed and Overseas Citizens Absentee Voting Act and plays an indispensable role in facilitating the procedural channels that allow military and overseas voters to have their votes count.

(5) The local, State, and Federal Government entities involved with getting ballots to military and overseas voters must work in conjunction to provide voter registration services and balloting materials in a secure and expeditious manner.

SEC. 583. CLARIFICATION REGARDING DELEGATION OF STATE RESPONSIBILITIES.

A State may delegate its responsibilities in carrying out the requirements under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) imposed as a result of the provisions of and amendments made by this Act to jurisdictions of the State.

SEC. 584. ESTABLISHMENT OF PROCEDURES FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS TO REQUEST AND FOR STATES TO SEND VOTER REGISTRATION APPLICATIONS AND ABSENTEE BALLOT APPLICATIONS BY MAIL AND ELECTRONICALLY.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(6) in addition to any other method of registering to vote or applying for an absentee ballot in the State, establish procedures—

''(A) for absent uniformed services voters and overseas voters to request by mail and electronically voter registration applications and absentee ballot applications with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (e);

''(B) for States to send by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas voter under subparagraph (C)) voter registration applications and absentee ballot applications requested under subparagraph (A) in accordance with subsection (e); and

''(C) by which the absent uniformed services voter or overseas voter can designate whether they prefer for such voter registration application or absentee ballot application to be transmitted by mail or electronically.''; and

(2) by adding at the end the following new subsection:

''(e) DESIGNATION OF MEANS OF ELECTRONIC COMMUNICATION FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS TO REQUEST AND FOR STATES TO SEND VOTER REGISTRATION APPLICATIONS AND ABSENTEE BALLOT APPLICATIONS, AND FOR OTHER PURPOSES RELATED TO VOTING INFORMATION.—

''(1) IN GENERAL.—Each State shall, in addition to the designation of a single State office under subsection (b), designate not less than 1 means of electronic communication—

''(A) for use by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State to request voter registration applications and absentee ballot applications under subsection (a)(6);

''(B) for use by States to send voter registration applications and absentee ballot applications requested under such subsection; and

''(C) for the purpose of providing related voting, balloting, and election information to absent uniformed services voters and overseas voters.

''(2) CLARIFICATION REGARDING PROVISION OF MULTIPLE MEANS OF ELECTRONIC COMMUNICATION.—A State may, in addition to the means of electronic communication so designated, provide multiple means of electronic communication to absent uniformed services voters and overseas voters, including a means of electronic communication for the appropriate jurisdiction of the State.

''(3) INCLUSION OF DESIGNATED MEANS OF ELECTRONIC COMMUNICATION WITH INFORMATIONAL AND INSTRUCTIONAL MATERIALS THAT ACCOMPANY BALLOTING MATERIALS.—Each State shall include a means of electronic communication so designated with all informational and instructional materials that accompany balloting materials sent by the State to absent uniformed services voters and overseas voters.

''(4) AVAILABILITY AND MAINTENANCE OF ONLINE REPOSITORY OF STATE CONTACT INFORMATION.—The Federal Voting Assistance Program of the Department of Defense shall maintain and make available to the public an online repository of State contact information with respect to elections for Federal office, including the single State office designated under subsection (b) and the means of electronic communication designated under paragraph (1), to be used by absent uniformed services voters and overseas voters as a resource to send voter registration applications and absentee ballot applications to the appropriate jurisdiction in the State.

''(5) TRANSMISSION IF NO PREFERENCE INDICATED.—In the case where an absent uniformed services voter or overseas voter does not designate a preference under subsection (a)(6)(C), the State shall transmit the voter registration application or absentee ballot application by any delivery method allowable in accordance with applicable State law, or if there is no applicable State law, by mail.

''(6) SECURITY AND PRIVACY PROTECTIONS.—

''(A) SECURITY PROTECTIONS.—To the extent practicable, States shall ensure that the procedures established under subsection (a)(6) protect the security and integrity of the voter registration and absentee ballot application request processes.

''(B) PRIVACY PROTECTIONS.—To the extent practicable, the procedures established under subsection (a)(6) shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter who requests or is sent a voter registration application or absentee ballot application under such subsection is protected throughout the process of making such request or being sent such application.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 585. ESTABLISHMENT OF PROCEDURES FOR STATES TO TRANSMIT BLANK ABSENTEE BALLOTS BY MAIL AND ELECTRONICALLY TO ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 584, is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(7) in addition to any other method of transmitting blank absentee ballots in the State, establish procedures for transmitting by mail and electronically blank absentee ballots to absent uniformed services voters and overseas voters with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (f).''; and

(2) by adding at the end the following new subsection:

''(f) TRANSMISSION OF BLANK ABSENTEE BALLOTS BY MAIL AND ELECTRONICALLY.—

''(1) IN GENERAL.—Each State shall establish procedures—

''(A) to transmit blank absentee ballots by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas voter under subparagraph (B)) to absent uniformed services voters and overseas voters for an election for Federal office; and

''(B) by which the absent uniformed services voter or overseas voter can designate whether they prefer for such blank absentee ballot to be transmitted by mail or electronically.

''(2) TRANSMISSION IF NO PREFERENCE INDICATED.—In the case where an absent uniformed services voter or overseas voter does not designate a preference under paragraph (1)(B), the State shall transmit the ballot by any delivery method allowable in accordance with applicable State law, or if there is no applicable State law, by mail.

''(3) SECURITY AND PRIVACY PROTECTIONS.—

''(A) SECURITY PROTECTIONS.—To the extent practicable, States shall ensure that the procedures established under subsection (a)(7) protect the security and integrity of absentee ballots.

''(B) PRIVACY PROTECTIONS.—To the extent practicable, the procedures established under subsection (a)(7) shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter to whom a blank absentee ballot is transmitted under such subsection is protected throughout the process of such transmission.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 586. ENSURING ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS HAVE TIME TO VOTE.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1(a)(1)), as amended by section 585, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraph:

''(8) transmit a validly requested absentee ballot to an absent uniformed services voter or overseas voter—

''(A) except as provided in subsection (g), in the case where the request is received at least 45 days before an election for Federal office, not later than 45 days before the election; and

''(B) in the case where the request is received less than 45 days before an election for Federal office—

''(i) in accordance with State law; and

''(ii) if practicable and as determined appropriate by the State, in a manner that expedites the transmission of such absentee ballot.''.

(2) by adding at the end the following new subsection:

''(g) HARDSHIP EXEMPTION.—

''(1) IN GENERAL.—If the chief State election official determines that the State is unable to meet the requirement under subsection (a)(8)(A) with respect to an election for Federal office due to an undue hardship described in paragraph (2)(B), the chief State election official shall request that the Presidential designee grant a waiver to the State of the application of such subsection. Such request shall include—

''(A) a recognition that the purpose of such subsection is to allow absent uniformed services voters and overseas voters enough time to vote in an election for Federal office;

''(B) an explanation of the hardship that indicates why the State is unable to transmit absent uniformed services voters and overseas voters an absentee ballot in accordance with such subsection;

''(C) the number of days prior to the election for Federal office that the State requires absentee ballots be transmitted to absent uniformed services voters and overseas voters; and

''(D) a comprehensive plan to ensure that absent uniformed services voters and overseas voters are able to receive absentee ballots which they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office, which includes—

''(i) the steps the State will undertake to ensure that absent uniformed services voters and overseas voters have time to receive, mark, and submit their ballots in time to have those ballots counted in the election;

''(ii) why the plan provides absent uniformed services voters and overseas voters sufficient time to vote as a substitute for the requirements under such subsection; and

''(iii) the underlying factual information which explains how the plan provides such sufficient time to vote as a substitute for such requirements.

''(2) APPROVAL OF WAIVER REQUEST.—After consulting with the Attorney General, the Presidential designee shall approve a waiver request under paragraph (1) if the Presidential designee determines each of the following requirements are met:

''(A) The comprehensive plan under subparagraph (D) of such paragraph provides absent uniformed services voters and overseas voters sufficient time to receive absentee ballots they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office.

''(B) One or more of the following issues creates an undue hardship for the State:

''(i) The State's primary election date prohibits the State from complying with subsection (a)(8)(A).

''(ii) The State has suffered a delay in generating ballots due to a legal contest.

''(iii) The State Constitution prohibits the State from complying with such subsection.

''(3) TIMING OF WAIVER.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), a State that requests a waiver under paragraph (1) shall submit to the Presidential designee the written waiver request not later than 90 days before the election for Federal office with respect to which the request is submitted. The Presidential designee shall approve or deny the waiver request not later than 65 days before such election.

''(B) EXCEPTION.—If a State requests a waiver under paragraph (1) as the result of an undue hardship described in paragraph (2)(B)(ii), the State shall submit to the Presidential designee the written waiver request as soon as practicable. The Presidential designee shall approve or deny the waiver request not later than 5 business days after the date on which the request is received.

''(4) APPLICATION OF WAIVER.—A waiver approved under paragraph (2) shall only apply with respect to the election for Federal office for which the request was submitted. For each subsequent election for Federal office, the Presidential designee shall only approve a waiver if the State has submitted a request under paragraph (1) with respect to such election.''.

(b) RUNOFF ELECTIONS.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1(a)), as amended by subsection (a), is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(9) if the State declares or otherwise holds a runoff election for Federal office, establish a written plan that provides absentee ballots are made available to absent uniformed services voters and overseas voters in manner that gives them sufficient time to vote in the runoff election.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 587. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

(a) IN GENERAL.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended by inserting after section 103 the following new section:

''SEC. 103A. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

''(a) ESTABLISHMENT OF PROCEDURES.—The Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and the Federal write-in absentee ballot prescribed under section 103, and for delivering such marked absentee ballots to the appropriate election officials.

''(b) DELIVERY TO APPROPRIATE ELECTION OFFICIALS.—

''(1) IN GENERAL.—Under the procedures established under this section, the Presidential designee shall implement procedures that facilitate the delivery of marked absentee ballots of absent overseas uniformed services voters for regularly scheduled general elections for Federal office to the appropriate election officials, in accordance with this section, not later than the date by which an absentee ballot must be received in order to be counted in the election.

''(2) COOPERATION AND COORDINATION WITH THE UNITED STATES POSTAL SERVICE.—The Presidential designee shall carry out this section in cooperation and coordination with the United States Postal Service, and shall provide expedited mail delivery service for all such marked absentee ballots of absent uniformed services voters that are collected on or before the deadline described in paragraph (3) and then transferred to the United States Postal Service.

''(3) DEADLINE DESCRIBED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the deadline described in this paragraph is noon (in the location in which the ballot is collected) on the seventh day preceding the date of the regularly scheduled general election for Federal office.

''(B) AUTHORITY TO ESTABLISH ALTERNATIVE DEADLINE FOR CERTAIN LOCATIONS.—If the Presidential designee determines that the deadline described in subparagraph (A) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential designee may establish as an alternative deadline for that location the latest date occurring prior to the deadline described in subparagraph (A) which is sufficient to provide timely delivery of the ballot under paragraph (1).

''(4) NO POSTAGE REQUIREMENT.—In accordance with section 3406 of title 39, United States Code, such marked absentee ballots and other balloting materials shall be carried free of postage.

''(5) DATE OF MAILING.—Such marked absentee ballots shall be postmarked with a record of the date on which the ballot is mailed.

''(c) OUTREACH FOR ABSENT OVERSEAS UNIFORMED SERVICES VOTERS ON PROCEDURES.—The Presidential designee shall take appropriate actions to inform individuals who are anticipated to be absent overseas uniformed services voters in a regularly scheduled general election for Federal office to which this section applies of the procedures for the collection and delivery of marked absentee ballots established pursuant to this section, including the manner in which such voters may utilize such procedures for the submittal of marked absentee ballots pursuant to this section.

''(d) ABSENT OVERSEAS UNIFORMED SERVICES VOTER DEFINED.—In this section, the term 'absent overseas uniformed services voter' means an overseas voter described in section 107(5)(A).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this section.''.

(b) CONFORMING AMENDMENT.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(8) carry out section 103A with respect to the collection and delivery of marked absentee ballots of absent overseas uniformed services voters in elections for Federal office.''.

(c) STATE RESPONSIBILITIES.—Section 102(a) of such Act (42 U.S.C. 1973ff–1(a)), as amended by section 586, is amended—

(1) in paragraph (8), by striking ''and'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(3) by adding the following new paragraph:

''(10) carry out section 103A(b)(1) with respect to the processing and acceptance of marked absentee ballots of absent overseas uniformed services voters.''.

(d) TRACKING MARKED BALLOTS.—Section 102 of such Act (42 U.S.C. 1973ff–1(a)), as amended by section 586, is amended by adding at the end the following new subsection:

''(h) TRACKING MARKED BALLOTS.—The chief State election official, in coordination with local election jurisdictions, shall develop a free access system by which an absent uniformed services voter or overseas voter may determine whether the absentee ballot of the absent uniformed services voter or overseas voter has been received by the appropriate State election official.''.

(e) PROTECTING VOTER PRIVACY AND SECRECY OF ABSENTEE BALLOTS.—Section 101(b) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(b)), as amended by subsection (b), is amended—

(1) by striking ''and'' at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(9) to the greatest extent practicable, take such actions as may be necessary—

''(A) to ensure that absent uniformed services voters who cast absentee ballots at locations or facilities under the jurisdiction of the Presidential designee are able to do so in a private and independent manner; and

''(B) to protect the privacy of the contents of absentee ballots cast by absentee uniformed services voters and overseas voters while such ballots are in the possession or control of the Presidential designee.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election

for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 588. FEDERAL WRITE-IN ABSENTEE BALLOT.

(a) USE IN GENERAL, SPECIAL, PRIMARY, AND RUNOFF ELECTIONS FOR FEDERAL OFFICE.—

(1) IN GENERAL.—Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–2) is amended—

(A) in subsection (a), by striking ''general elections for Federal office'' and inserting ''general, special, primary, and runoff elections for Federal office'';

(B) in subsection (e), in the matter preceding paragraph (1), by striking ''a general election'' and inserting ''a general, special, primary, or runoff election for Federal office''; and

(C) in subsection (f), by striking ''the general election'' each place it appears and inserting ''the general, special, primary, or runoff election for Federal office''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 31, 2010, and apply with respect to elections for Federal office held on or after such date.

(b) PROMOTION AND EXPANSION OF USE.—Section 103(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–2) is amended—

(1) by striking ''GENERAL.—The Presidential'' and inserting ''GENERAL.—

''(1) FEDERAL WRITE-IN ABSENTEE BALLOT.—The Presidential''; and

(2) by adding at the end the following new paragraph:

''(2) PROMOTION AND EXPANSION OF USE OF FEDERAL WRITE-IN ABSENTEE BALLOTS.—

''(A) IN GENERAL.—Not later than December 31, 2011, the Presidential designee shall adopt procedures to promote and expand the use of the Federal write-in absentee ballot as a back-up measure to vote in elections for Federal office.

''(B) USE OF TECHNOLOGY.—Under such procedures, the Presidential designee shall utilize technology to implement a system under which the absent uniformed services voter or overseas voter may—

''(i) enter the address of the voter or other information relevant in the appropriate jurisdiction of the State, and the system will generate a list of all candidates in the election for Federal office in that jurisdiction; and

''(ii) submit the marked Federal write-in absentee ballot by printing the ballot (including complete instructions for submitting the marked Federal write-in absentee ballot to the appropriate State election official and the mailing address of the single State office designated under section 102(b)).

''(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this paragraph.''.

SEC. 589. PROHIBITING REFUSAL TO ACCEPT VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS, MARKED ABSENTEE BALLOTS, AND FEDERAL WRITE-IN ABSENTEE BALLOTS FOR FAILURE TO MEET CERTAIN REQUIREMENTS.

(a) VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 587, is amended by adding at the end the following new subsection:

''(i) PROHIBITING REFUSAL TO ACCEPT APPLICATIONS FOR FAILURE TO MEET CERTAIN REQUIREMENTS.—A State shall not refuse to accept and process any otherwise valid voter registration application or absentee ballot application (including the official post card form prescribed under section 101) or marked absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

''(1) Notarization requirements.

''(2) Restrictions on paper type, including weight and size.

''(3) Restrictions on envelope type, including weight and size.''.

(b) FEDERAL WRITE-IN ABSENTEE BALLOT.—Section 103 of such Act (42 U.S.C. 1973ff–2) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) PROHIBITING REFUSAL TO ACCEPT BALLOT FOR FAILURE TO MEET CERTAIN REQUIREMENTS.—A State shall not refuse to accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

''(1) Notarization requirements.

''(2) Restrictions on paper type, including weight and size.

''(3) Restrictions on envelope type, including weight and size.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 590. FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.

(a) FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.—

(1) IN GENERAL.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.), as amended by section 587, is amended by inserting after section 103A the following new section:

''SEC. 103B. FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.

''(a) DUTIES.—The Presidential designee shall carry out the following duties:

''(1) Develop online portals of information to inform absent uniformed services voters regarding voter registration procedures and absentee ballot procedures to be used by such voters with respect to elections for Federal office.

''(2) Establish a program to notify absent uniformed services voters of voter registration information and resources, the availability of the Federal postcard application, and the availability of the Federal write-in absentee ballot on the military Global Network, and shall use the military Global Network to notify absent uniformed services voters of the foregoing 90, 60, and 30 days prior to each election for Federal office.

''(b) CLARIFICATION REGARDING OTHER DUTIES AND OBLIGATIONS.—Nothing in this section shall relieve the Presidential designee of their duties and obligations under any directives or regulations issued by the Department of Defense, including the Department of Defense Directive 1000.04 (or any successor directive or regulation) that is not inconsistent or contradictory to the provisions of this section.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Voting Assistance Program of the Department of Defense (or a successor program) such sums as are necessary for purposes of carrying out this section.''.

(2) CONFORMING AMENDMENTS.—Section 101 of such Act (42 U.S.C. 1973ff), as amended by section 587, is amended—

(A) in subparagraph (b)—

(i) by striking ''and'' at the end of paragraph (8);

(ii) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(iii) by adding at the end the following new paragraph:

''(10) carry out section 103B with respect to Federal Voting Assistance Program Improvements.''; and

(B) by adding at the end the following new subsection:

''(d) AUTHORIZATION OF APPROPRIATIONS FOR CARRYING OUT FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.—There are authorized to be appropriated to the Presidential designee such sums as are necessary for purposes of carrying out subsection (b)(10).''.

(b) VOTER REGISTRATION ASSISTANCE FOR ABSENT UNIFORMED SERVICES VOTERS.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 589, is amended by adding at the end the following new subsection:

''(j) VOTER REGISTRATION ASSISTANCE FOR ABSENT UNIFORMED SERVICES VOTERS.—

''(1) DESIGNATING AN OFFICE AS A VOTER REGISTRATION AGENCY ON EACH INSTALLATION OF THE ARMED FORCES.—Not later than 180 days after the date of enactment of this subsection, each Secretary of a military department shall take appropriate actions to designate an office on each installation of the Armed Forces under the jurisdiction of such Secretary (excluding any installation in a theater of combat), consistent across every installation of the department of the Secretary concerned, to provide each individual described in paragraph (3)—

''(A) written information on voter registration procedures and absentee ballot procedures (including the official post card form prescribed under section 101);

''(B) the opportunity to register to vote in an election for Federal office;

''(C) the opportunity to update the individual's voter registration information, including clear written notice and instructions for the absent uniformed services voter to change their address by submitting the official post card form prescribed under section 101 to the appropriate State election official; and

''(D) the opportunity to request an absentee ballot under this Act.

''(2) DEVELOPMENT OF PROCEDURES.—Each Secretary of a military department shall develop, in consultation with each State and the Presidential designee, the procedures necessary to provide the assistance described in paragraph (1).

''(3) INDIVIDUALS DESCRIBED.—The following individuals are described in this paragraph:

''(A) An absent uniformed services voter—

''(i) who is undergoing a permanent change of duty station;

''(ii) who is deploying overseas for at least 6 months;

''(iii) who is or returning from an overseas deployment of at least 6 months; or

''(iv) who at any time requests assistance related to voter registration.

''(B) All other absent uniformed services voters (as defined in section 107(1)).

''(4) TIMING OF PROVISION OF ASSISTANCE.—The assistance described in paragraph (1) shall be provided to an absent uniformed services voter—

''(A) described in clause (i) of paragraph (3)(A), as part of the administrative in-processing of the member upon arrival at the new duty station of the absent uniformed services voter;

''(B) described in clause (ii) of such paragraph, as part of the administrative in-processing of the member upon deployment from the home duty station of the absent uniformed services voter;

''(C) described in clause (iii) of such paragraph, as part of the administrative in-processing of the member upon return to the home duty station of the absent uniformed services voter;

''(D) described in clause (iv) of such paragraph, at any time the absent uniformed services voter requests such assistance; and

''(E) described in paragraph (3)(B), at any time the absent uniformed services voter requests such assistance.

''(5) PAY, PERSONNEL, AND IDENTIFICATION OFFICES OF THE DEPARTMENT OF DEFENSE.—The Secretary of Defense may designate pay, personnel, and identification offices of the Department of Defense for persons to apply to register to vote, update the individual's voter registration information, and request an absentee ballot under this Act.

''(6) TREATMENT OF OFFICES DESIGNATED AS VOTER REGISTRATION AGENCIES.—An office designated under paragraph (1) or (5) shall be considered to be a voter registration agency designated under section 7(a)(2) of the National Voter Registration Act of 1993 for all purposes of such Act.

''(7) OUTREACH TO ABSENT UNIFORMED SERVICES VOTERS.—The Secretary of each military department or the Presidential designee shall take appropriate actions to inform absent uniformed services voters of the assistance available under this subsection including—

''(A) the availability of voter registration assistance at offices designated under paragraphs (1) and (5); and

''(B) the time, location, and manner in which an absent uniformed voter may utilize such assistance.

''(8) DEFINITION OF MILITARY DEPARTMENT AND SECRETARY CONCERNED.—In this subsection, the terms 'military department' and 'Secretary concerned' have the meaning given such terms in paragraphs (8) and (9), respectively, of section 101 of title 10, United States Code.

''(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 591. DEVELOPMENT OF STANDARDS FOR REPORTING AND STORING CERTAIN DATA.

(a) IN GENERAL.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)), as amended by section 590, is amended—

(1) by striking ''and'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(11) working with the Election Assistance Commission and the chief State election official of each State, develop standards—

''(A) for States to report data on the number of absentee ballots transmitted and received under section 102(c) and such other data as the Presidential designee determines appropriate; and

''(B) for the Presidential designee to store the data reported.''.

(b) CONFORMING AMENDMENT.—Section 102(a) of such Act (42 U.S.C. 1973ff–1(a)), as amended by section 587, is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(11) report data on the number of absentee ballots transmitted and received under section 102(c) and such other data as the Presidential designee determines appropriate in accordance with the standards developed by the Presidential designee under section 101(b)(11).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

SEC. 592. REPEAL OF PROVISIONS RELATING TO USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.

(a) IN GENERAL.—Subsections (a) through (d) of section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–3) are repealed.

(b) CONFORMING AMENDMENTS.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended—

(1) in section 101(b)—

(A) in paragraph (2), by striking '', for use by States in accordance with section 104''; and

(B) in paragraph (4), by striking ''for use by States in accordance with section 104''; and

(2) in section 104, as amended by subsection (a)—

(A) in the section heading, by striking ''**USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS**'' and inserting ''**PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION**''; and

(B) in subsection (e), by striking ''(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.—''.

SEC. 593. REPORTING REQUIREMENTS.

The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended by inserting after section 105 the following new section:

''SEC. 105A. REPORTING REQUIREMENTS.

''(a) REPORT ON STATUS OF IMPLEMENTATION AND ASSESSMENT OF PROGRAMS.—Not later than 180 days after the date of the enactment of the Military and Overseas Voter Empowerment Act, the Presidential designee shall submit to the relevant committees of Congress a report containing the following information:

''(1) The status of the implementation of the procedures established for the collection and delivery of marked absentee ballots of absent overseas uniformed services voters under section 103A, and a detailed description of the specific steps taken towards such implementation for the regularly scheduled general election for Federal office held in November 2010.

''(2) An assessment of the effectiveness of the Voting Assistance Officer Program of the Department of Defense, which shall include the following:

''(A) A thorough and complete assessment of whether the Program, as configured and implemented as of such date of enactment, is effectively assisting absent uniformed services voters in exercising their right to vote.

''(B) An inventory and explanation of any areas of voter assistance in which the Program has failed to accomplish its stated objectives and effectively assist absent uniformed services voters in exercising their right to vote.

''(C) As necessary, a detailed plan for the implementation of any new program to replace or supplement voter assistance activities required to be performed under this Act.

''(3) A detailed description of the specific steps taken towards the implementation of voter registration assistance for absent uniformed services voters under section 102(j), including the designation of offices under paragraphs (1) and (5) of such section.

''(b) ANNUAL REPORT ON EFFECTIVENESS OF ACTIVITIES AND UTILIZATION OF CERTAIN PROCEDURES.—Not later than March 31 of each year, the Presidential designee shall transmit to the President and to the relevant committees of Congress a report containing the following information:

''(1) An assessment of the effectiveness of activities carried out under section 103B, including the activities and actions of the Federal Voting Assistance Program of the Department of Defense, a separate assessment of voter registration and participation by absent uniformed services voters, a separate assessment of voter registration and participation by overseas voters who are not members of the uniformed services, and a description of the cooperation between States and the Federal Government in carrying out such section.

''(2) A description of the utilization of voter registration assistance under section 102(j), which shall include the following:

''(A) A description of the specific programs implemented by each military department of the Armed Forces pursuant to such section.

''(B) The number of absent uniformed services voters who utilized voter registration assistance provided under such section.

''(3) In the case of a report submitted under this subsection in the year following a year in which a regularly scheduled general election for Federal office is held, a description of the utilization of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A, which shall include the number of marked absentee ballots collected and delivered under such procedures and the number of such ballots which were not delivered by the time of the closing of the polls on the date of the election (and the reasons such ballots were not so delivered).

''(c) DEFINITIONS.—In this section:

''(1) ABSENT OVERSEAS UNIFORMED SERVICES VOTER.—The term 'absent overseas uniformed services voter' has the meaning given such term in section 103A(d).

''(2) PRESIDENTIAL DESIGNEE.—The term 'Presidential designee' means the Presidential designee under section 101(a).

''(3) RELEVANT COMMITTEES OF CONGRESS DEFINED.—The term 'relevant committees of Congress' means—

''(A) the Committees on Appropriations, Armed Services, and Rules and Administration of the Senate; and

''(B) the Committees on Appropriations, Armed Services, and House Administration of the House of Representatives.''.

SEC. 594. ANNUAL REPORT ON ENFORCEMENT.

Section 105 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973f–4) is amended—

(1) by striking ''The Attorney'' and inserting ''(a) IN GENERAL.—The Attorney''; and

(2) by adding at the end the following new subsection:

''(b) REPORT TO CONGRESS.—Not later than December 31 of each year, the Attorney General shall submit to Congress an annual report on any civil action brought under subsection (a) during the preceding year.''.

SEC. 595. REQUIREMENTS PAYMENTS.

(a) USE OF FUNDS.—Section 251(b) of the Help America Vote Act of 2002 (42 U.S.C. 15401(b)) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following new paragraph:

''(3) ACTIVITIES UNDER UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.—A State shall use a requirements payment made using funds appropriated pursuant to the authorization under section 257(4) only to meet the requirements under the Uniformed and Overseas Citizens Absentee Voting Act imposed as a result of the provisions of and amendments made by the Military and Overseas Voter Empowerment Act.''.

(b) REQUIREMENTS.—

(1) STATE PLAN.—Section 254(a) of the Help America Vote Act of 2002 (42 U.S.C. 15404(a))

is amended by adding at the end the following new paragraph:

''(14) How the State plan will comply with the provisions and requirements of and amendments made by the Military and Overseas Voter Empowerment Act.''.

(2) CONFORMING AMENDMENTS.—Section 253(b) of the Help America Vote Act of 2002 (42 U.S.C. 15403(b)) is amended—

(A) in paragraph (1)(A), by striking ''section 254'' and inserting ''subsection (a) of section 254 (or, in the case where a State is seeking a requirements payment made using funds appropriated pursuant to the authorization under section 257(4), paragraph (14) of section 254)''; and

(B) in paragraph (2)—

(i) by striking ''(2) The State'' and inserting ''(2)(A) Subject to subparagraph (B), the State''; and

(ii) by inserting after subparagraph (A), as added by clause (i), the following new subparagraph:

''(B) The requirement under subparagraph (A) shall not apply in the case of a requirements payment made using funds appropriated pursuant to the authorization under section 257(4).''.

(c) AUTHORIZATION.—Section 257(a) of the Help America Vote Act of 2002 (42 U.S.C. 15407(a)) is amended by adding at the end the following new paragraph:

''(4) For fiscal year 2010 and subsequent fiscal years, such sums as are necessary for purposes of making requirements payments to States to carry out the activities described in section 251(b)(3).''.

SEC. 596. TECHNOLOGY PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ABSENT UNIFORMED SERVICES VOTER.—The term ''absent uniformed services voter'' has the meaning given such term in section 107(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(2) OVERSEAS VOTER.—The term ''overseas voter'' has the meaning given such term in section 107(5) of such Act.

(3) PRESIDENTIAL DESIGNEE.—The term ''Presidential designee'' means the individual designated under section 101(a) of such Act.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Presidential designee may establish 1 or more pilot programs under which the feasibility of new election technology is tested for the benefit of absent uniformed services voters and overseas voters claiming rights under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(2) DESIGN AND CONDUCT.—The design and conduct of a pilot program established under this subsection—

(A) shall be at the discretion of the Presidential designee; and

(B) shall not conflict with or substitute for existing laws, regulations, or procedures with respect to the participation of absent uniformed services voters and military voters in elections for Federal office.

(c) CONSIDERATIONS.—In conducting a pilot program established under subsection (b), the Presidential designee may consider the following issues:

(1) The transmission of electronic voting material across military networks.

(2) Virtual private networks, cryptographic voting systems, centrally controlled voting stations, and other information security techniques.

(3) The transmission of ballot representations and scanned pictures in a secure manner.

(4) Capturing, retaining, and comparing electronic and physical ballot representations.

(5) Utilization of voting stations at military bases.

(6) Document delivery and upload systems.

(7) The functional effectiveness of the application or adoption of the pilot program to operational environments, taking into account environmental and logistical obstacles and State procedures.

(d) REPORTS.—The Presidential designee shall submit to Congress reports on the progress and outcomes of any pilot program conducted under this subsection, together with recommendations—

(1) for the conduct of additional pilot programs under this section; and

(2) for such legislation and administrative action as the Presidential designee determines appropriate.

(e) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Election Assistance Commission and the National Institute of Standards and Technology shall work with the Presidential designee to support the pilot program or programs established under this section through best practices or standards and in accordance with electronic absentee voting guidelines established under the first sentence of section 1604(a)(2) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1277; 42 U.S.C. 1977ff note), as amended by section 567 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1919).

(2) REPORT.—In the case where the Election Assistance Commission has not established electronic absentee voting guidelines under such section 1604(a)(2), as so amended, by not later than 180 days after enactment of this Act, the Election Assistance Commission shall submit to the relevant committees of Congress a report containing the following information:

(A) The reasons such guidelines have not been established as of such date.

(B) A detailed timeline for the establishment of such guidelines.

(C) A detailed explanation of the Commission's actions in establishing such guidelines since the date of enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1919).

(3) RELEVANT COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''relevant committees of Congress'' means—

(A) the Committees on Appropriations, Armed Services, and Rules and Administration of the Senate; and

(B) the Committees on Appropriations, Armed Services, and House Administration of the House of Representatives.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 1765. Mr. CHAMBLISS (for himself, Mr. LIEBERMAN, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

SEC. 125. REPORT ON E-8C JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM RE-ENGINING.

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report on replacing the engines of E-8C Joint Surveillance and Target Attack Radar System (Joint STARS) aircraft. The report shall include the following:

(1) An assessment of funding alternatives and options for accelerating funding for the fielding of Joint STARS aircraft with replaced engines.

(2) An analysis of the tradeoffs involved in the decision to replace the engines of Joint STARS aircraft or not to replace those engines, including the potential cost savings from replacing those engines and the operational impacts of not replacing those engines.

(3) An identification of the optimum path forward for replacing the engines of Joint STARS aircraft and modernizing the Joint STARS fleet.

(b) LIMITATION ON CERTAIN ACTIONS.—The Secretary of the Air Force may not take any action that would adversely impact the pace of the execution of the program to replace the engines of Joint STARS aircraft before submitting the report required by subsection (a).

SA 1766. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—SERVICEMEMBER FAMILY AND MEDICAL LEAVE

Subtitle A—General Requirements for Leave

SEC. __11. DEFINITION OF COVERED ACTIVE DUTY.

(a) DEFINITION.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended—

(1) by striking paragraph (14) and inserting the following:

''(14) COVERED ACTIVE DUTY.—The term 'covered active duty' means—

''(A) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and

''(B) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.''; and

(2) by striking paragraph (15) and redesignating paragraphs (16) through (19) as paragraphs (15) through (18), respectively.

(b) LEAVE.—Section 102 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612) is amended—

(1) in subsection (a)(1)(E)—

(A) by striking ''active duty'' each place it appears and inserting ''covered active duty''; and

(B) by striking ''in support of a contingency operation''; and

(2) in subsection (e)(3)—

(A) in the paragraph heading, by striking ''ACTIVE DUTY'' and inserting ''COVERED ACTIVE DUTY'';

(B) by striking ''active duty'' each place it appears and inserting ''covered active duty''; and

(C) by striking ''in support of a contingency operation''.

(c) CONFORMING AMENDMENT.—Section 103(f) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613(f)) is amended, in the subsection heading, by striking ''ACTIVE DUTY'' each place it appears and inserting ''COVERED ACTIVE DUTY''.

SEC. __12. DEFINITION OF COVERED SERVICEMEMBER.

Paragraph (15) of section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) (as redesignated by section __11) is amended to read as follows:

''(15) COVERED SERVICEMEMBER.—The term 'covered servicemember' means—

''(A) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

''(B) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.''.

SEC. __13. DEFINITIONS OF SERIOUS INJURY OR ILLNESS; VETERAN.

Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is further amended by striking paragraph (18) (as redesignated by section __11) and inserting the following:

''(18) SERIOUS INJURY OR ILLNESS.—The term 'serious injury or illness'—

''(A) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

''(B) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (15)(B), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

''(19) VETERAN.—The term 'veteran' has the meaning given the term in section 101 of title 38, United States Code.''.

SEC. __14. TECHNICAL AMENDMENT.

Section 102(e)(2)(A) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(e)(2)(A)) is amended by striking ''or parent'' and inserting ''parent, or next of kin''.

SEC. __15. REGULATIONS.

The Secretary of Labor, after consultation with the Secretary of Defense and Secretary of Veterans Affairs, shall prescribe such regulations as are necessary to carry out the amendments made by this title.

Subtitle B—Leave for Civil Service Employees

SEC. __21. EXIGENCY LEAVE FOR SERVICEMEMBERS ON COVERED ACTIVE DUTY.

(a) DEFINITION.—Section 6381(7) of title 5, United States Code, is amended to read as follows:

''(7) the term 'covered active duty' means—

''(A) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and

''(B) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code;''.

(b) LEAVE.—Section 6382 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(E) Because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.'';

(2) in subsection (b)(1), by inserting after the second sentence the following: ''Subject to subsection (e)(3) and section 6383(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.'';

(3) in subsection (d), by striking ''or (D)'' and inserting ''(D), or (E)''; and

(4) in subsection (e), by adding at the end the following:

''(3) In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on covered active duty, or because of notification of an impending call or order to covered active duty, the employee shall provide such notice to the employer as is reasonable and practicable.''.

(c) CERTIFICATION.—Section 6383(f) of title 5, United States Code, is amended by striking ''section 6382(a)(3)'' and inserting ''paragraph (1)(E) or (3) of section 6382(a)''.

SEC. __22. DEFINITION OF COVERED SERVICEMEMBER.

Paragraph (8) of section 6381 of title 5, United States Code, is amended to read as follows:

''(8) the term 'covered servicemember' means—

''(A) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

''(B) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy;''.

SEC. __23. DEFINITIONS OF SERIOUS INJURY OR ILLNESS; VETERAN.

Section 6381 of title 5, United States Code, is further amended—

(1) in paragraph (10), by striking ''and'' at the end; and

(2) by striking paragraph (11) and inserting the following:

''(11) the term 'serious injury or illness'—

''(A) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

''(B) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (8)(B), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran; and

''(12) the term 'veteran' has the meaning given the term in section 101 of title 38, United States Code.''.

SEC. __24. TECHNICAL AMENDMENT.

Section 6382(e)(2)(A) of title 5, United States Code, is amended by striking ''or parent'' and inserting ''parent, or next of kin''.

SEC. __25. REGULATIONS.

The Office of Personnel Management, after consultation with the Secretary of Defense and Secretary of Veterans Affairs, shall prescribe such regulations as are necessary to carry out the amendments made by this title.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, July 22, 2009, at 10 a.m. in room 325 of the Russell Senate Office Building.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 22, 2009, at 10 a.m. to conduct a hearing on ''The Semiannual Monetary Policy Report to the Congress.''

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 22, 2009.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, July 22, 2009, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, 22, 2009, at 10 a.m. in room 406 of the Dirksen Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 22, 2009, at 9 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 22, 2009, at 2:30 p.m. to hold a hearing entitled ''The Case for Reform: Foreign Aid and Development.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DURBIN. 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, July 22, 2009, after the 12 p.m. vote in the President's room.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 22, 2009, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Promoting Job Creation and Foreign Investment in the United States: An Assessment of the EB–5 Regional Center Program.''.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, July 22, 2009, at 10 a.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, July 22, 2009, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate on July 22, 2009, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Metal Theft: Public Hazard, Law Enforcement Challenge.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, be authorized to meet during the session of the Senate on Wednesday, July 22, 2009, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. KAUFMAN. Mr. President, on behalf of Senator MERKLEY I ask unanimous consent that Amelia Bell, an intern in his office, be granted the privilege of the floor for the duration of today's session.

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent that Bill Curlin, an Air Force Fellow in Senator DORGAN's office, be granted the privilege of the floor during debate on the fiscal year 2010 Defense authorization bill.

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

Mr. CORNYN. Mr. President, I ask unanimous consent that MAJ Paul Taylor be granted the privilege of the floor for the remainder of this legislative session.

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

Mr. BROWNBACK. Mr. President, I ask unanimous consent that floor privileges for the remainder of this session be granted for an intern in my office, Lindy Brownback.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that Juliet Beyler, a congressional fellow in the office of Senator GREGG, be allowed the privilege of the floor during consideration of S. 1390.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that MAJ Jim DeLapp, a military fellow in the office of Senator BEGICH, be granted the privilege of the floor for the duration of Senate consideration of S. 1390.

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

HEALTH CARE REFORM

Mr. DODD. Mr. President, I rise on this early evening in July to spend a few minutes to talk about health care. I know it has obviously been a subject of great interest over the last number of days, having been asked to fill in for my dear friend, Senator TED KENNEDY, the chairman of the Health, Education, Labor, and Pensions Committee, who as we all know is struggling with his own health issues.

I was asked to fill in for him to mark up the HELP Committee's legislation on health care, and I was fortunate to have as my allies in that effort some remarkable Members of this body—both Democrats and Republicans—who, we are told, spent as long a time, maybe longer than for any other markup in the history of that committee and one of the longest in the history of this body. There were some 23 sessions over 13 days, covering nearly 300 amendments that were offered on behalf of the 23 Members of the Senate—almost a quarter of this body—serving on that committee.

After that lengthy period of time, we drafted a bipartisan bill. It did not end up being a bipartisan vote. It was a partisan vote coming out of committee, regrettably. But that doesn't mean it will end up that way. I have often been involved in legislative efforts where the committee action would have a partisan conclusion, only to find that after further work, those efforts can attract a broad base of support and develop the kind of broad-based backing that is, I think, an important feature of good legislation.

So while I regret we didn't have any Republican votes in that committee, I am deeply grateful to my Democratic colleagues for their efforts—and also to my Republican colleagues for their efforts—which I will talk about. I intend, in the coming days, to talk about this issue through the remaining weeks we are in session—and possibly even beyond that, if we stay in session in August to work on this issue.

This is not any ordinary issue or ordinary time. I have been around long enough now to have witnessed the debates on this issue going back 30 years. Every single Congress and every single administration predating my arrival here has grappled with this issue—Republicans and Democrats alike. Since the days of Harry Truman in the 1940s, literally every administration has tried to come up with an idea to reform our health care system.

In years past, those efforts were talked about in terms of describing the present condition of health care as being an unacceptable situation; that it was wrong, unethical, immoral that we weren't serving people who should be served. The debate has now changed because it is no longer just unacceptable—which has always been the case—but we are now in a situation where the present conditions are unsustainable. Yesterday and again this morning the Chairman of the Federal Reserve Board, Ben Bernanke, testifying on monetary policy, was asked the question in both the other body as well as in the Banking Committee, which I chair, how important health care was as a matter of economic recovery. In both forums, in different language, the Chairman of the Federal Reserve—while not getting into the details of

the various plans—pointed out, once again, if there was any doubt about this, that unless we resolve the health care issue, the economic issues we are grappling with today will be unresolved and only grow in their complexity and in their depth.

So this issue of health care is obviously one that affects real people every day. As we conclude the work day here on the east coast, and will do so in a few hours across America, remember this: Today, and every day, as we grapple with this issue, 14,000 of our fellow citizens will lose their health care. That is 14,000 today, 14,000 tomorrow and the next day and the next day and the next day. Every day we wait and delay on this issue, that many more of our fellow citizens and their families can fall into that abyss, that free-fall of wondering whether some accident, some injury, some diagnosis will tell them and their families they are in deep trouble, from a health care perspective.

If they lack the kind of coverage and insurance or lack the kind of personal wealth, that family will not only face the hardship of confronting a health care crisis without the adequate quality of care to provide for them and their families, but they may very well find themselves in economic ruin as a result of the situation that persists today.

I am not talking about the uninsured alone. I am talking about the 25 or 30 million who are underinsured in this country. They struggle every single day, wondering whether those deductibles are going to be low enough to pay when crisis strikes and, even if they have a policy, whether there are going to be an adequate number of doctor visits, prescriptions covered, and the like that provide them with the necessary protection to recover from their health care situation and avoid the economic crisis that can befall them.

To put it in perspective for you, Mr. President, consider this: Of all the bankruptcies that occur in the country, and there are many in economic times such as this, 62 percent of those bankruptcies are directly related to a health care crisis in that family; that they would not be in that situation except for the fact that they are suffering through a health care crisis that has forced them into financial bankruptcy. Consider this, if you will: 50 percent of all home foreclosures—and there are 10,000 of those every day, today 10,000 families got a foreclosure notice—50 percent, one out of every two foreclosures that occurred in this country occurred because of health care costs for that family.

Eighty-seven million of our fellow citizens every year find themselves in some period when they lack health insurance. Yet, as I say all of that from this Chamber, all 100 of us here have a great health care system, the Federal Employees Health Benefits Plan. All of the Federal employees in the Capitol and across this country have a good health care program, the Federal Employees Health Benefits Plan. Maybe if we were in the same situation as our fellow citizens, being uninsured or underinsured, maybe there would be a heightened sense of urgency about this issue. But as long as we are OK and have nothing to worry about because of the jobs we hold, the titles we have, because of the good health care at relatively low cost that we have, none of us have to worry about that. We hope nothing happens, we hope we do not get sick, we hope a child of ours or a grandchild doesn't face a health care crisis, but if they do, Lord forbid, we have the resources to protect our family. That is not the case for millions of our fellow citizens.

So this issue demands our attention. It is an issue that cries out for solution. It is one that we must address. This is not one we can delay on, it is not one we can postpone for some future Congress. In fact, the American President, Barack Obama, who will address the country about 55 minutes from now on this subject, has made the case publicly: There is no other issue more important to him than this one. He has announced he is willing to expend whatever political capital he has in order to resolve the health care issue. He has made it the central issue of his Presidency, and we in this body, regardless of what political label we wear, bear a similar responsibility and should be sharing a similar cause—and that is to address this issue in a way that will increase access, will reduce cost, and create the kind of quality health care all Americans ought to have.

Every American ought to have at least as good health care coverage as their Member of Congress. Every American ought to be able to go to bed at night with the security that if their spouse or their children or a loved one in their family were to face a health care crisis, they would not be facing economic ruin, that they would not be wiped out because of it. Every American ought to have that sense of security, that something in this great Nation of ours ought not to be depending upon the wealth you have in your family or the job you hold. It ought to be a basic right to be able to have access to affordable quality health care in America. That is the charge. That is the obligation. That is what stands before us as the issue of, not only the day or the hour, but I think of our time here in this Congress.

President Obama has said he is willing to expend every bit of his political capital. That is an extraordinary statement made by an extraordinary President at an extraordinary moment in our Nation's history. In my 35 years in Congress serving with seven Presidents, I have never heard another President on any issue make a similar statement of their willingness to expend their capital on a single issue. This President has made that statement. That ought to inspire all of us to join him in that effort.

The President recognizes, as I hope my colleagues recognize, that we have been given a mandate by the American people to deliver on health care reform. I hope my colleagues will join in this effort.

Already we have made significant progress toward legislation that cuts costs, protects consumer choice, and guarantees access to affordable quality care for every one of our citizens.

The American Medical Association, the American Nurses Association, the organizations representing America's hospitals and pharmaceutical companies, have all come to the table and agreed to support strong health care reform. Three of five congressional committees responsible for health care have already approved strong legislation. I was here in 1994. Those organizations which I just mentioned, believe me, were not at the table urging that this Congress pass major health care reform. They are today. That is a fundamental change that has occurred in the last decade and a half.

Even the notorious Harry and Louise, those actors who once were used in commercials to kill health care reform, stood with me last week in a group of our colleagues when we announced the first piece of health care legislation to emerge from the Senate. They stand strong for health care reform and change and intend to do everything they can to assist in that effort.

This bill, the one that passed the HELP Committee, the Affordable Health Care Choices Act, is a strong and sensible piece of legislation. It forbids insurance companies from cherry-picking applicants based on their gender, based on their health care status, or any preexisting conditions. Never, ever again, under our legislation, if adopted, would an American citizen be denied coverage of health care because he or she is a cancer survivor or the victim of domestic violence. Never, ever again under our bill would an American citizen who thought they had insurance find their coverage cut or taken away just at the moment they need it the most because our bill, if it is passed, not only eliminates caps on benefits, it bans insurance companies from cutting or taking away coverage after a policy has been signed.

Our bill, if adopted into law, cracks down on waste and fraud, focuses on preventive care, reduces the crushing burden of administrative costs, and has been scored by the Congressional Budget Office at $611 billion over 10 years. That is a savings of more than $400 billion from the original estimate by the Congressional Budget Office.

I am very proud we came in on time and under budget in the HELP Committee. We are not being talked about much these days because we got our job done a week ago today, but I am even more proud that with real contributions from each of the 22 of my colleagues who serve on that committee—a quarter of the Senate—we

were able to craft a uniquely American bill for the American people.

In the United States of America, we already find much we like in our health care system. We like our family doctors and compassionate nurses. We like our world-class hospitals and technology—and we should. They are remarkable. We like having the freedom of choice as Americans of our own health care and the ability to get it fast, if we can. Our bill will not touch these things that work in our health care system in the United States today.

In the United States, we hold the relationship between a doctor and his or her patient to be sacrosanct, and our bill, if signed into law, guarantees nothing can ever come between you and the doctor of your choice—not the Federal Government, not an insurance company, not a bureaucrat from the private or the public sector. In the United States of America, we believe in shared risk and shared responsibility. Our bill, if signed into law, lowers costs for everyone by ensuring that everyone is insured. The bigger the pool, obviously the broader the risk and the lower the cost.

In return, our bill asks individuals, employers, the Federal Government, all of us to share responsibility, not just for treating people when they get sick but hopefully for preventing them from getting sick in the first place.

In the United States of America, we know in our committee, as we drafted the bill, that good companies are not afraid of competition. Our bill includes a public insurance option that is just that—it is an option, purely voluntary, for consumers and providers to decide whether they want to participate, nothing mandatory, just a voluntary option, a little healthy American competition to give consumers and providers some choices in the health care system of our Nation. That is an outrageous and radical thought to some, I know. In my communities, it is pretty basic, pretty common sense, pretty traditional, and it is a red-blooded American idea—a little competition. It doesn't hurt anybody. In fact, we suspect it actually helps most.

In the United States of America, we have the best treatment and research facilities in the world, facilities that regularly produce remarkable advances. Our bill, if signed into law, ensures that those advances translate directly and efficiently into better outcomes and lower costs for our fellow citizens.

Most of all, in our United States of America, we have learned the hard way that we need health care reform. For nearly 70 years now, Democrats and Republicans, Presidents and Congresses alike, have all tried this. Every one of them has made a Herculean effort to deal with this issue. Here we are, close to a century later, still in the same ditch, unable to dig ourselves out of it as it gets deeper and deeper.

So this is the moment. This is why we are here. This is our opportunity now to step up or to step back, and history will judge which of the two directions we took at this moment; whether we have the intestinal fortitude and determination to sit down for the long, hard hours and hammer out something, to deliver not because it is good for us but because it is good for the people we seek to represent. That is why we are here.

We talk about these debates as if no one else existed. Who is working on this, who is bipartisan, who is not, what coalition or group, who is a Blue Dog or Red Dog. It must drive the American people nuts watching us acting as if we were the only people on the face this planet wrestling with this issue. We don't have to worry, none of us. Tonight you can sleep soundly, as a U.S. Congressman or Senator, because if you wake up in the morning with a health care crisis, there is nothing to worry about financially. We are well protected and taken care of. Unfortunately for millions of our fellow citizens all across this country, they cannot sleep as soundly as we do. They are the ones we ought to be thinking about in this debate—not whether we have some coalition that is going to produce some magical result. Keep our eye on the ball. The American people are expecting nothing less from us.

For far too often, of course, we have failed in these efforts that have been defeated by nothing more than cheap politics in too many instances. The well-being of our citizens is left to drown in today's political current, all the while we have paid, of course, a deep, deep price for that ditch we are in, a ditch that is growing.

American families pay an average of $1,100 extra. If you bought insurance and you have an insurance policy, by and large you are paying $1,100 more every year in premiums to cover the costs associated with the health care for the 47 million of our fellow citizens who are uninsured. It is not that they don't get health care. They show up. Where do they show up? They show up in emergency rooms. The most expensive health care in the country is in emergency rooms. So when you are paying tonight, as many Americans will be, that quarterly or monthly premium, or whatever the timeframe is for the premiums you pay, look at a percentage of what you are paying. On average, you are paying $1,100 more every year to cover the uninsured, whose health care gets paid for. You are paying for it. When people say we cannot afford any more cost on all of this, you are already paying an exorbitant amount.

One of the efforts in this bill, in our bill along with the efforts being made by others, is to see to it that the 47 million, a number that expands to 87 million at one point or another during the year, of our fellow citizens who are without insurance at all, is reduced.

But that is the pricetag, $1,100 on average for our covering the uninsured among our fellow citizens.

Three out of every five bankruptcies, as I mentioned already, in the United States of America are caused by high medical bills. More than 75 percent of those forced into bankruptcy because of medical bills had insurance, by the way. That number is not the uninsured, 75 percent of people who fall into bankruptcy are insured.

Of the 62 percent of the bankruptcies that are created by this health care crisis, 75 percent of those people had a health insurance policy. So do not assume this only happens to those people who have no health insurance. If you are insured tonight, and you run into a major health care crisis, then you can very well find yourselves in the same position millions of our fellow citizens have who fall into bankruptcy. It is not the destitute, it is average American families.

In many cases, half our Nation's foreclosures are a direct result of our broken health care system, as we now know. But it is not just families and businesses being bankrupted, health care costs have come to consume a simply unsustainable portion of our budget. The other day the Congressional Budget Office answered the question in the Budget Committee: Are we bending the curves up or down for these various health care plans. I have a lot of respect for the people who work at the Congressional Budget Office. I know they work very hard.

But I will do a little wager that no one on that committee, the Budget Committee, nor did the CBO in their calculations of cost, ask the question of whether bankruptcies or foreclosures were calculated into the costs, one way or another, that were part of their conclusions.

But why are they not? If 62 percent of all bankruptcies occur in the country because people who are insured could not afford the health care needs they had for their families, why is that not a cost to be calculated in bending curves? What about those foreclosures, 50 percent of which occur because of a health care crisis in that family.

Did the CBO write that number into its computer models to figure out costs? Why not? Is that not a cost to our country? If a family goes into bankruptcy or loses their home because of a health care crisis that is created by the present situation in this country, where are the calculations and computer models that will tell us the impact of those crises on families?

So we talk about this issue, and we are told now in these macroeconomic terms by actuaries and accountants and the ''green visor crowd'' that 16 percent of our gross domestic product is spent on health care and that number could quickly climb to 35 percent.

What does that mean? It means, we are told, in the next 8 or 10 years, if we do not act, if we listen to those who do not think the last 70 years or the last number of Congresses that we wrestled with these issues is somehow wasted time, that we can end up with the average family paying 50 percent of its

gross income on health care premiums. That is not an exaggeration, that is not a phony projection. The very same economists who are telling you about the 16 percent of our gross domestic product consumed today are the ones who predict, based on the present trajectories, unchanged, that 35 percent of our GDP can be consumed by health care costs.

You might be curious to know the next nation that is closest to us as a percentage of its gross domestic product is Switzerland, and Switzerland spends a little over 10 percent of its GDP on health care. Then the next country is us, around 16 percent and growing.

To give you some idea around the world how we rate and compare on a per-capita basis, pretty staggering numbers. By the way, you might say: Well, look, I am sorry, Senator. I know it is a lot of money, but you know what? We have great outcomes. We have remarkable outcomes. So we are paying more than Switzerland. But, by golly, our people here get great outcomes.

Well, I wish I could tell you that is the case. The fact is we rank 37th in the world in outcomes. What a great statistic, the United States of America, the wealthiest nation on the face of this Earth, we spend more, $2.5 trillion a year, than anybody, a larger percentage by almost double, with the closest of any other nation in the world, and we rank 37th in the world in medical outcomes.

There is something staggeringly wrong with that number—with that amount of money being spent and those outcomes coming in. If you wonder why people are frustrated by the subject matter, and they may not know these numbers, all they know is what they are going through and their family.

If we continue on this path, it only gets worse. By the way, to add additional shame to that number, we rank at the bottom of all industrialized nations when it comes to infant mortality, the bottom of industrialized nations, when it comes to infant mortality in the United States of America. I find that shameful, those numbers.

We like to think of ourselves as doing so many things so well as a country because of who we are and how we govern ourselves and the opportunities we create in the United States of America. We like to believe that this is not some Third World country, that we would take good care of our newborns. To rank at the bottom of the list in infant mortality is shameful, to come in 37th in medical outcomes is shameful, to spend almost double the percentage of our gross domestic product as our nearest competitor nation is also shameful.

We have reached a point where no Senator can, with a straight face, come on the floor of this body and argue for the status quo. That status quo is not only unacceptable, as I have said, it is unsustainable.

Of course, some will stand on this floor and argue that the best thing we can do when confronted with a house on fire is to walk around it a few more times and argue about how high the flames have grown. Well, when we began writing this legislation out of the HELP Committee, we did not forget that each of us were born with one mouth and two ears.

We started with a blank page. Long before I was asked to pinch-hit for TED KENNEDY, Senator KENNEDY and his staff and others invited the minority, early on, to share their ideas. You are going to hear otherwise, that we got drawn into this, we were not informed. That is not the case. They were not drawn in. They were invited. They had no idea what they wanted to offer, only that they got nervous about this plan going forward.

That started, I am told, at the end of last year, not when the President was inaugurated after January 20. So we began by listening. We listened to stakeholders, providers, hospitals, pharmaceutical companies. Anyone we could gather who had an interest in the subject matter was invited to come and talk about what they thought a Federal health care reform package ought to look like. The culmination of that effort was to draft a bill. Why did we draft a bill? Well, because the rules of the Senate require it. You cannot begin a markup in the HELP Committee unless you have a product on the table. There has to be legislation written. The rules require it. So we wrote a bill and put it on the table and invited our colleagues on the committee to come and comment on it, talk about it, amend it, change it, do whatever they thought might improve it.

That is what took us to 54 hours, over 13 days and 23 sessions and nearly 300 amendments; a rather long and elaborate process. It was good work. Frankly, the bill got a lot better because of the effort. It got better because my Republican colleagues offered terrific ideas.

Contrary to what some may think, they did not come and just shove their hands in their pockets, put their heads in the sand and refuse to participate or walk away and not show up. MIKE ENZI, JUDD GREGG, LAMAR ALEXANDER, I can go down a long list of the Republican members who were there day after day, sat in that committee room and contributed mightily to our effort.

I was blessed to have TOM HARKIN and BARBARA MIKULSKI and JEFF BINGAMAN and PATTY MURRAY, who were asked by Senator TED KENNEDY months ago if they would each take on a separate piece of the bill.

TOM HARKIN grappled with prevention issues; developed a staff with expertise and knowledge. BARBARA MIKULSKI worked on quality issues; did the same as TOM HARKIN. PATTY MURRAY did it on workforce. JEFF BINGAMAN did it on coverage. They had 12 hearings themselves on this subject matter even before a word was written on the bill, to bring people together, to listen to ideas and how we could shape those ideas as part of the structure of reform for the health care system.

Then that culminated with us sitting down in the beginning, back 5 or 6 weeks ago now, to actually mark up this bill, as we are expected to do. True, the Republicans on the committees did not vote for the bill, I have said that, regrettably. That was pretty clear to me that was probably going to happen no matter what we did. But they contributed and they made significant contributions. Of the 161 amendments that we accepted were offered by the Republican side—of the nearly 300 amendments that we considered, 161 amendments offered by the minority are very much a part of the bill that I have been talking about this evening. Some were technical amendments, clearly. But many were very substantive.

They do not want to admit it maybe because they voted against it in the end. You can define bipartisan any way you want. But I define it by contributions made to the product. They made a bipartisan contribution to the product and a better bill, not a perfect bill, was the result. It obviously needs more work. But we think it is a good, sensible bill that ought to enjoy the support of our colleagues.

Senator GREGG, for instance, and a number of his fellow Republicans were concerned about the long-term fiscal impact of our provisions on long-term care. So JUDD GREGG offered an amendment that would require the Secretary of Health and Human Services to set and adjust premiums based on a 75-year outlook of the program's solvency.

We had a robust debate for an hour on this issue. The committee recognized the tremendous value, frankly, of what JUDD GREGG was proposing. So his amendment was accepted unanimously, and the bill is a better bill for it. JOHNNY ISAKSON, my very good friend from Georgia, brought to the table the issue of end-of-life care, drawing on his own family's experiences. He gave very moving remarks in our committee about the importance of end-of-life care issues. He was able to talk about the importance of planning for the last days of one's life, how difficult that can be.

I just went through that with my sister who was diagnosed on May 22 with lung cancer, and she was gone in 6 weeks. She died on July 6, the first of my siblings to be lost. She was 68 years of age, with 5 children and 17 grandchildren. She knew in the last 9 days of her life what the outcome was going to be.

So she insisted upon each of us spending an hour or so alone, every one of her 17 grandchildren, every one of her children and their spouses, every one of her siblings, every one of her close friends. Her best friend in the world was a woman she met on the first day of college when she was 18 years of age. Her name is NANCY

PELOSI, Speaker of the House. She was there for the funeral.

JOE BIDEN came up. JOE and my sister were great friends, and he came up for the wake the night before. So I knew she was thinking, my sister, in planning what she wanted to have happen those last nine days of her life. A lot of families go through that. Senator ISAKSON made a very substantial contribution, nothing technical about what he was talking about. Our bill is a better bill because JOHNNY ISAKSON's ideas were incorporated in it.

MIKE ENZI and JUDD GREGG AND LAMAR ALEXANDER wanted to increase employer's flexibility to offer work-based wellness programs with incentives for employees. Some of my fellow Democrats had reservations about their proposal. But Senator TOM HARKIN of Iowa and myself and several others on the committee worked with our colleagues on the Republican side to craft a compromise, a version we were able to pass on a bipartisan basis unanimously.

As a result, today, employers at some point can offer as much as a 50-percent reduction in premiums to employees who have engaged in lifestyle behaviors that will reduce their threat of illness and thus bring down the cost to those people. It was a great idea. We attributed a lot of it to Steven Burd, the CEO of Safeway, who brought the ideas to the table.

But our fellow Democrats, working again with MIKE ENZI and JUDD GREGG and LAMAR ALEXANDER came up with those ideas in that compromise. That is not technical. The bill is a better bill because of their efforts. I can go on and talk of the rest of the members who made contributions—but I will not tonight. Every one of them have contributions in this bill. But let me be clear: If we deem bipartisanship more important than timely and effective health care reform, the only thing that will be bipartisan will be our collective failure as an institution. I have introduced a lot of bills over the years, and passed a lot of legislation. On every major bill I have written in this place, I have had a Republican partner, going back to the earliest days when I arrived here and offered the first child care legislation since World War II.

My ally on that was a guy named ORRIN HATCH from Utah, who stood with me and we passed it. I offered the Family and Medical Leave Act. That took 7 years, two vetoes. Today there are some 50 million Americans who take leave without pay without losing their jobs. My partner on that was Dan Coates of Indiana, and ARLEN SPECTER at the time was a Republican, obviously, along with people not here who were involved. KIT BOND played a very important role in developing the Family and Medical Leave Act.

I could go on with a list of bills, and on every single one of them I had bipartisan support. So I understand the value of it. It is a very important means by which to get a job done. But let me suggest to you at this hour, while bipartisanship is a means to get to an end, what really is missing right now is leadership in all of this—leadership from each one of us.

The President is leading as strongly as he can, and is deeply involved in this issue. Members of various committees are also leading. But in this institution everybody can be a leader, if they want to be.

Right now, I think what the country is looking for is leadership on this issue. Yes, bipartisanship is a nice quality, an important element, to pass bills. But leadership is what is most missing in all of this—the willingness to understand the moment, the unique opportunity to address a crippling issue that faces our country.

Every single one of our citizens will be adversely affected if we fail to act. There are very few bills that can ever make that claim, and yet health care issues affect 100 percent of the Nation. Most bills we deal with deal with percentages. Family and medical leave—50 million benefited by it, far short of the 300-plus million in our country. Health care affects every single one of our citizens and is why, again, it demands our attention and our resolution.

So to those who are not ready to join in this effort, we invite your suggestions, your improvements, your thoughts to come to that table. Listening to some of our colleagues say this is all about defeating the President or making sure no one has a political victory, I have to ask what planet are they living on to believe this debate ought to be about who wins and who loses a political contest on this issue?

Again, it is not about us. It is about people across this country who are expecting a lot more from us who do not wake up and wonder what political party they belong to or what section of the country they live in. If their child gets sick, if their spouse is sick and struggling and needing help, the last thing they want to hear about is whether you are a Democrat or a Republican or an Independent or live in a blue State, a red State, or whatever other color you want to attribute to them. They want to know if we have the sense to deal with this issue.

The truth is, we have waited too long. We have waited far too long. We have waited decades now. And the American people have been waiting even longer. Their wait is much more painful than ours. There is no cause for delay.

Yes, you have to examine the bill. We have to look at it, consider suggestions, but that only happens when you sit down and work together.

We spent those 60 hours in the HELP Committee, and it was not easy and it was not comfortable, and people got tired and frustrated at various moments, and there were times I thought it was going to fall apart. But I knew if we ever stopped and walked away, then those who wanted no result, no answer to this, would win. So day after day I asked my colleagues to come back and sit at that table and work.

What I said earlier I mean deeply: There were those who, frankly, might have decided not to show up, and that might have had a political conclusion; but they did show up. My Republican colleagues, as well as my Democratic colleagues, showed up every single day and worked to make that a better bill, even though there were those who voted against it. So there is no cause for delay. There is no cause for obstruction. And there is no excuse for inaction, in my view.

In a few weeks, we will return to our various States for the so-called August break, although, frankly, I am prepared to stay here and work. That may not be a popular idea, but I cannot think of anything more important than this issue, including whether we take some time off in August to go to the beach and go to the mountains or go to the lakes or wherever we go to visit with our constituents. Remember that every day we are on our break, another 14,000—every day in that August break we will take—will be without health care at the end of that day—every day; 14,000 a day—while we are drifting off instead of engaging in what we ought to be doing, in my view, and coming to terms with this issue.

Some will be among the ranks of the uninsured. Some are struggling and scared, bearing the emotional and physical scars that come with delaying the foregoing needed care, worrying that one car accident, one diagnosis could mean bankruptcy, foreclosure, or, in fact, the inability to get any care at all. Some will have insurance, but they will share the same worries because their insurance costs are much too high and covers far too little. They will be thinking about the jobs they wish they could leave to maybe start a small business but cannot because they would lose their insurance lifeline. They will be wondering whether their plan will decide to cover cancer screening when they are told by their doctor they actually need it. They will be wondering how many visits to the doctor, how many visits to the hospital will be adequate. Some will not be worried about their insurance today, but they will be among the millions who will lose their insurance if they do not step up to the plate and take some action.

But everyone we see when we go home will be watching us over the next 3 weeks. You better believe they are going to ask us about health care. They are going to ask us whether we are up to the job of passing a bill this year. They are going to ask us why we have not made more progress. They are going to ask us fundamental questions, ones we will have to answer for ourselves based on what we do in these coming days and weeks.

At this very moment, we stand at the cusp of history—one of those unique moments. It does not happen very often around here, but every now and

then it happens, and we are in one. And it is not going to last long. It is only going to last a few more weeks, maybe a couple of months, as to whether, in this moment, we have the ability to rise up and do what we should be doing—even though it does not meet our ideals; it is not the bill each one of us would write on our own—but that moment when we recognize our failure to act at all is a moment missed and not likely to be recaptured during our tenure.

I know for newer Members here that may seem like an exaggeration, but to those of us who have been here a while, we will tell you, these moments do not come very often. Most of the time we go through the routine of reauthorizing bills, reappropriating money, and that consumes about 95 percent of our time—not unimportant business, I will be the first to admit, but fairly routine.

And every now and then—every now and then—in our Nation's history, there have been moments of critical importance: in the early 1960s, the Civil Rights Act, the Voting Rights Act, Medicare; going back in the depression years; the Eisenhower years, with the Federal Highway System in our country. You can point to various times through the 20th century when Congress, contrary to what everyone else thought—this institution—decided to take on an issue that made a difference in our country.

I suspect Barack Obama, in part, had a chance to be elected President of the United States because people he never knew and who never knew him sat here day after day, week after week, and engaged in the debate on civil rights—back long before any of us were ever here, except for BOB BYRD, who was here, and TED KENNEDY, who was here. Those two Members actually were in this Chamber in those days in the early 1960s, and today we are a lot better country. We are a lot better country because of it.

And that was one heck of a fight, let me tell you. I was a young page sitting on the floor here in the summer of 1961 and 1962, when Lyndon Johnson was sitting where the Presiding Officer is, watching the all-night debates on civil rights. And they were raucous, and they were wild, and they were tough. There was no bipartisanship on that, I can tell you. It was down right tough and nasty. Those memories fade. What remains is the fact that this institution had leaders who stood up and said: We are going to get this done. And they achieved those results. And today we celebrate those moments.

We have forgotten about the bitterness that occurred in the debates. No one is asking whether it was bipartisan or whether coalitions got what they wanted. The response was: the United States got closer to that more perfect union that our Founders described more than two centuries ago.

Well, we are in that moment again. And in many ways this is a civil rights debate about health care, because too many of our fellow citizens are denied that right of health care based on economic circumstances beyond their control. The issue is very simply this: Will we come together and decide, at a moment like this, to get a job done or will we take the easier path and step back because it is a little too tough?

Others have failed at it. It means I might lose some votes back home. But there are certain issues that are worth losing an election over. That is not the worst thing that ever happened to someone. Watching your family go bankrupt, losing your home, watching a child or a spouse suffer because you do not have enough money to buy health care, that is a problem. That is a real problem.

So the issues here are complicated. I know that. I know they are difficult. I know if they were easy, they would have been solved a long time ago. But I have a lot of confidence. I listened to 22 of my colleagues over 5 weeks in a markup become educated and grapple with these issues. We did not resolve all of them, but we educated ourselves and made a difference and produced a bill—a bill that is now the only one in this Chamber that is before us. We hope our colleagues will examine it, take a look at it, make whatever recommendations they could as we move forward. I know the Finance Committee is wrestling with this. Senator BAUCUS and I arrived on the same day in Congress in 1975. We have been friends for 35 years. I know he is struggling to get the right kind of bill to come out of that committee. I wish him the very best and have offered whatever help we can to assist in that effort. I hope we can get a product that moves forward, that we can embrace and be proud of, and that will make a difference.

So for the coming days, I won't take as much time as I have this evening, but I want to talk about this bill in detail. I want to engage in the debate. I want to get away from the cheap politics, the bumper sticker slogans about things that don't exist, the fear that is so easy to arouse in people—the easiest emotion to appeal to is people's fears and hates—and talk constructively and positively about what we can do together to overcome this issue that is a scourge on our society and worthy of this Chamber's efforts.

I thank my colleagues for their the patience this evening and for listening to all of this, and I thank the Chair for his patience. I look forward to the hour when we will come together as a body here—not as Democrats and as Republicans, but as United States Senators—at this moment and pass a major health care reform bill that moves our country to accessibility, to affordability, and equality of health care.

CONGRATULATING SENATOR BEGICH

Mr. DODD. Mr. President on a separate matter, I wish to note that some 20 minutes ago, the junior Senator from Alaska, the Presiding Officer, is the first Member of this new class to come in to win the Golden Gavel, presiding over 100 hours of Senate business. I am the only one here in the Chamber, but I give you a round of applause.

I am proud to have been here engaged in this discussion and to have you presiding over this conversation. I thank you very much, Senator BEGICH, and congratulations on serving our Senate admirably and as well as you have over these 100 hours.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate stands adjourned until 9:30 Thursday, July 23, 2009.

Thereupon, the Senate, at 7:42 p.m., adjourned until Thursday, July 23, 2009, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF THE TREASURY

JEFFREY ALAN GOLDSTEIN, OF NEW YORK, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE ROBERT K. STEEL, RESIGNED.

DEPARTMENT OF STATE

ALBERTO M. FERNANDEZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

PUBLIC HEALTH SERVICE

REGINA M. BENJAMIN, OF ALABAMA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE FOR A TERM OF FOUR YEARS, VICE RICHARD H. CARMONA, TERM EXPIRED.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

JOSEPH P. BURNS
STEPHEN P. CARMICHAEL
CHRISTOPHER S. CHAMBERS
JAMES M. ELLINGER, JR
KAREN S. EMMEL
MICHAEL J. FITZGERALD
CRAIG W. GOODMAN
GREGORY J. KNIFF
DAVID J. WRAY

To be commander

RAYMOND P. OBENO
KIRK T. MOSS
DAVID G. ORAVEC

To be lieutenant commander

KEVIN M. CASEY
JUDD E. PARTRIDGE
KAREN M. STOKES
BRIAN STRANAHAN

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

EDDIE L. NIXON

To be commander

STEPHEN GRAHAM
ERNEST C. LEE
KEITH T. SIVERTSON

To be lieutenant commander

MONTE K. BELL
NIELS U. COTHGEN
TRENT W. MARCUS
GERALD S. MAXWELL
ROBERT E. POWERS
TERRENCE P. REIFF
ASTRID G. RIVERA
SHOLI A. ROTBLATT
RAFAEL RUIZ
DENNIS M. WEPPNER