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Senate

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Eternal and merciful God, in the midst of our labors, we are grateful for this time to talk to You and to be refreshed by Your presence. At a time when vast issues are at stake, remind our lawmakers of the great traditions in which we stand. Empower them to rise to the greatness of vision and soul that energized the Founders of this land. May they embrace and support the great causes that will mold the future into the pattern of Your desire and design.

Lord, use our Senators to heal and rebuild our world. In the darkness of our time, may their lives be Your candles to illuminate our Nation and world.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 27, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WARNER 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, there will be a period of morning business for up to 1 hour. At 3 p.m., the Senate will proceed to the consideration of the Energy and Water appropriations bill, which will be managed by Senator DORGAN. There will be no rollcall votes today during the session. There should be votes tomorrow morning prior to the caucus luncheons.

FINISHING THIS WORK PERIOD

Mr. REID. Mr. President, there are many who suffer from our broken health care system, and many who will benefit when we fix it. Counted among those are the increasing numbers of Americans who go to work every day in small businesses. The vast majority of jobs in America today are not with the huge companies but with small businesses. Owners and employees alike of small businesses are getting a raw deal. They are paying more for their health insurance, if they have it at all.

Small businesses in big cities and small towns across the country play an immeasurable role in sculpting how the future will look. These are the entrepreneurs who innovate, invent, and fuel our economy. They are the visionaries who help create jobs and cultivate ideas.

We, in turn, must help nurture these businesses. We should be making it easier for them to grow and to succeed. But if we keep the status quo—if we do not act—we will be making it harder. The White House's Council of Economic Advisers has found that when a small business buys the same health insurance plan as a big business, the small business pays significantly more per worker. The consequence of this inequity is very clear: A small business owner who has to pay more to keep his or her employees covered has to cut corners somewhere else. Maybe they pay their employees lower wages or salaries. Maybe they have to use more of their profits to pay for health care and have less to spend on the research and development that will help their ideas become realities. Maybe they need to buy new equipment or invest in new technologies but cannot because of the crushing costs of health care. Maybe they lay off more hard-working Americans than they ordinarily would.

What if the expense they choose to sacrifice is health care itself? And that happens so often. Almost 100 percent of large businesses—those with more than 200 employees—offer health benefits. But fewer than half of businesses with nine or fewer employees can afford to do the same, and that number is shrinking.

When we reform health care, we will level the playing field for small businesses. We will give employees more choices and better plans from which to choose. We will give owners tax credits so they can afford to cover their workers. We will make it easier for existing small businesses to succeed. We will make it easier for more entrepreneurs to start their own new companies. And we will make it easier for more Americans to afford to work there and stay healthy at the same time—all in this small business atmosphere.

Reforming health care—and doing it the right way—is not just a health issue, it is also an economic issue. That

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



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is why we will continue in the coming weeks and months to reform health care in a way that protects what works and fixes what does not. It is why we are committed to getting this right, not just getting it done by an arbitrary deadline.

While we work on health care, we will also tackle other priorities on our plate. Over the next 2 weeks, we are going to complete at least two appropriations bills that invest in our Nation and support programs that will help our economy grow.

This week we will pass the Energy and Water appropriations bill and start the very important Agriculture appropriations bill. Both of these bills are important. The Energy and Water appropriations bill will help develop safe, homegrown energy sources that reduce our dangerous reliance on oil. The Agriculture appropriations bill, which invests significantly in nutrition programs, school lunch programs, food and drug safety, and international food aid, is important.

We also need to keep existing and successful programs alive so they can continue to succeed. These include the highway trust fund, the unemployment trust fund, the Federal Housing Authority, Ginnie Mae, and benefits for retirees of the Postal Service. All these extensions we have to take care of before we leave. So let me be clear: We are not looking to expand a single one of the programs I have just talked about. We merely must keep them running.

We will also revisit the Travel Promotion Act—a solid, important bipartisan bill that will create tens of thousands of new jobs, cut our deficit by almost a half a billion dollars, and help our economy recover in every single State in the Union.

We will confirm President Barack Obama's outstanding nominee for the Supreme Court, Judge Sonia Sotomayor.

With the cooperation of both Republicans and Democrats, and with a commitment to crafting productive policy rather than playing political games, we can finish this work and this work period strongly. I am confident we will.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each.

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

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

The legislative clerk proceeded to call the roll.

Mr. KYL. 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. KYL. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for up to 20 minutes.

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

Mr. KYL. Thank you, Mr. President.

HEALTH CARE

Mr. KYL. Mr. President, what I wish to talk about today is the subject that probably more than any other is on the minds of the American people and certainly probably the No. 1 item on the agenda of most of us in the House and the Senate; namely, what we do about the escalating cost of health care in America and the need for all Americans to have access to coverage.

Those two questions are animating a debate which has captured the time of the people in the House and the Senate, who represent to the American people, and, as we have found more and more—and I found out this weekend when I was back in my home State—the attention of our constituents.

Let me begin by saying, I think that is good.

There was a question about whether the Congress would pass legislation on the House floor or the Senate floor before the beginning of the August recess. Most of us on this side of the aisle felt it would be beneficial if we could go back home and take the month of August, when we are supposed to be home visiting with our constituents, to have some townhall meetings and other fora, and engage them in a conversation about what they think the best ideas are. Because, at the end of the day, legislation this important, that is going to affect every single American, needs to be well understood by them. And we need, as their representatives, to get their input on what they think is a good idea.

The reality is that very few, if any, Members of either the House or the Senate have read the major bills yet, let alone be able to post them on the Internet so the American people can see them or get them in some kind of hard copy for other people to understand, evaluate them, and discuss them with the American people.

Anything this important cannot be done quickly. It has to be done right. And the first principle is: People need to understand what it is. I have found—and I confess, first of all, I have not read the three House bills nor have I read the HELP Committee bill, the Health, Education, Labor, and Pensions Committee bill. I have read a great deal of what has come out of the Finance Committee. But there is no bill put together in the Finance Committee yet.

The thing that strikes me is the complexity and the degree of government takeover involved. I can't begin, in the

brief period of time I have, to describe all the different ways in which the government would take over the key decisions about health insurance and health care in America if these bills were to pass. They are replete with references to the most minute things about people's health that the government will then be taking over.

There are major decisions being made here. We don't know the ramifications of them all. Among other things, the cost. One thing we are learning is ideas Members have about reducing costs don't translate into actual cost reduction because the Congressional Budget Office, which is the entity we have charged with the obligation of telling us how much these things cost, has come back with estimates that are very low in terms of savings and very high in terms of cost. For example, in the main bill in the House of Representatives, the deficit is increased by \$240 billion, and in the bill that has come through the HELP Committee in the Senate, the deficit is increased by \$600 billion.

Nor has the CBO been able to find much savings. I think it was last Friday that they examined the latest idea to come to the White House; namely, to put a group in charge—it used to be called MedPAC, but it would have a different name now—and they would be in charge of identifying what coverage for federal programs there was and how much would be reimbursed to the providers. Unless both Houses of Congress affirmatively voted to reject those recommendations, they would automatically go into effect.

Well, apart from the obvious concerns about that, CBO came back and said it will only save perhaps \$2 billion over 10 years, which is a drop in the bucket when given the over \$1 trillion cost of the legislation in the House, when it is fully implemented, \$2 trillion cost to the Senate bill.

I mention this simply to point out the order-of-magnitude issue we have facing us: a hugely complex subject; huge amounts of money to be spent, big increases in the deficit, lots of new taxes proposed to help pay for it, and ramifications that will affect all of us in terms of the health care we are entitled to receive. Because of the amount of government involvement in both what insurance can and cannot cover as well as what the government programs such as Medicare can and cannot cover, every American will be affected in terms of the health care our physician says our family or we need but which the government says not necessarily can we receive from our physician; in other words, putting the government between the patient and the physician. That will result in delay and denial of care and outright rationing of health care. This is something that is also of concern to the American people.

When we take \$500 billion in proposed cuts from Medicare at the same time we are adding a brandnew group of baby boom generation retirees, there

can be only one result: a cut in health care for seniors. So seniors also have a right to be concerned. Young people have a right to be concerned when we say that in order to reduce the cost of insurance for the sickest people, we are going to put everybody in the same pool, basically, and they will all get the same basic insurance premium or at least within a dictated range. The sticker shock for younger people in America is going to be incredible. They are going to see their premiums increase. So for many people, the cost of health care is not going to go down, it is going to go up.

Very few people believe we can actually reduce the cost of something by putting the government in charge of it.

The final issue people are concerned about after the cost of it, the increase in deficits, the increased taxes to pay for it, the fact that it will result in delay and denial of care, is the fact that it will not enable people to keep what they have. This is one of the reasons the President has said so many times that if you like your insurance, you get to keep it. The President is wrong when he says that. He hasn't read the bills. On this I will take just a little bit of time because he is wrong on two counts.

First of all, the statement comes with significant conditions; second, it comes with an expiration date. There are two primary reasons why it is not true that if you like your insurance, you get to keep it. Let's back up a little bit. According to a Fox News survey, 91 percent of Americans say they have health insurance. Eighty-four percent of them rate their insurance as either good or excellent. This is why the President makes the comment "If you like it, you get to keep it," because most Americans have it and they like it, they want to keep it, and they don't want to sacrifice their coverage in order to solve some of the other problems that are inherent in our system. But the promise, as I said, is not true.

First of all, what the President and our Democratic colleagues want is what they call a public option—a government-run insurance company—to compete with other insurance companies. To the extent that a lot of Americans don't particularly like insurance companies—and I must confess there are some things insurance companies do that I don't like—it is easy to put them out there as a target and say, as the President has said, we need somebody to keep them honest.

Well, let's examine that for a moment. Do we need to have a government-run business in every business in America in order to keep the privately run businesses honest? In the first place, the health insurance industry is the most regulated—or one of the most regulated—industries in America. Every State regulates the health insurance that is issued in their State. They don't need to be kept honest by a competitor from the government. In the second place, having the regulator—the

government—also be a competitor has its obvious limitations. It won't be long before the other competitors are put out of business. I think most people who look at this say that is exactly what would happen.

But it also represents a point of view that I find very troubling. I know the government has now taken over our biggest automobile manufacturers. It has gotten into the business of other insurance. It has gotten into the business of banking. It has gotten into the business of student loans; in fact, it now has a monopoly in that. But I can't believe the American people want there to be a government business to compete with private businesses in other elements of our economy. That is socialism. I don't think the administration wants to do that. Certainly, the American people don't want to. So why would you have a government competitor in the private market? For one reason only, and most people who are honest about this acknowledge that it is in order to have the government take over health care. It is called single payer. There is a group in America that wants single payer very badly.

Members of Congress have said: Well, we can't get there in one giant step; the American people won't stand for that. It is going to take two steps. First, we will create a very powerful government-run insurance company to compete with private business and eventually put them out of business and then we will have one insurance company for all of America. It will be a government company, and there won't be any more private companies, at least to speak of. So it is a two-step process. That is the hidden agenda of those who want a government-run insurance company. There is no other reason to have one.

We have 1,300 insurance companies in America. We don't need yet one more competitor. They sell thousands of different kinds of insurance policies. We don't need yet one more competitor. Honesty is not the issue. We have a highly regulated industry by the States and by the Federal Government. The only reason to have it is to put the private insurers out of business.

Is that what would happen? How does this relate to people who like their insurance and won't get to keep it? Well, the Lewin Group, which is a highly respected, nonpartisan health care think tank, says that within a couple years, we will have 119 million people on the government-run insurance plan, 88 million of whom were previously insured by private business. In other words, 88 million people will lose their coverage because it is much cheaper to have the government-run plan take care of them than for their employer to continue to do so. As much as their employer likes the employees, if it is substantially cheaper to provide health care to them by paying the fine that the bills have—\$750 per employee, 8 percent of the payroll tax; there are different fines in here—it is still cheaper for the business

to pay the fine than it is to pay the health care they are currently providing. So 88 million people: Sorry; even if you like your health care, you don't get to keep it, according to the Lewin Group. I think their estimate is, if anything, conservative.

There is a second reason why if you like your insurance you won't be able to keep it. Those who are not insured by larger businesses—the ones whom I have just been talking about—but by smaller businesses or who are self-insured, there is an expiration date on this promise. After 5 years, you don't get to keep it and probably sooner than that. Because if there is a change in your policy or if the insurance company enrolls anybody else in it, then automatically it loses its protected or grandfathered status and is now under the regulatory regime that is established by these bills. That regulatory regime will totally change what that insurance coverage is. They dictate what is covered, what isn't covered, what the premiums are, what the companies can make, and a whole host of other things. So even though you may like your insurance, you are not going to get to keep it because no plan is static; that is to say, it never enrolls any more people and it never changes any of its terms. If either of those two things happen under the House bill, you lose your insurance. So it is not true that if you like your insurance, you get to keep it.

That is the final reason people are concerned. They are concerned about the huge cost: \$1 trillion, \$2 trillion; they are concerned about the deficit, the increase in the deficit, even with more tax increases. These numbers are not mine; these are from the Congressional Budget Office—nonpartisan, which is in business to tell us how much these things cost. So these are facts, not opinions.

It is my opinion that based upon the language of these bills, we will lose the ability to determine with our doctor what health care we get. Secondly, even if you like your health insurance, you are not going to be able to keep it for the reasons I mentioned.

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

The ACTING PRESIDENT pro tempore. There is 5 minutes 40 seconds.

Mr. KYL. Five minutes. Thank you very much.

The American people are becoming concerned about this as well. The more they hear about it, the more they don't like what they are hearing. I resent those who say we have to do this quickly or it might not happen at all. It is a lot like the stimulus. We were told we had to do it quickly. Nobody read that bill. It was over 1,000 pages. It had a lot of stinkers in it. It had porkbarrel spending. It made a lot of promises it couldn't keep: We are going to cap unemployment at 8 percent. Well, it is on its way to 10 percent. It hasn't created 4 million jobs. It is not going to. And it is going to cost us over \$1 trillion.

So I think fooled once, maybe that is your fault; fooled twice is my fault. The American people are saying we are not going to be fooled twice. We want time to look at this one. It is over 1,000 pages. We want to read it. We want you, the Senators and Representatives, to read it, and when you do, you will find a lot of things you are going to be surprised about and you do not like.

The American people, as I said, are beginning to answer polling questions, and I wish to share some of the data. A majority—this is from the Fox Poll I cited earlier—say slow it down. We would rather have it slowed down and done right than moved quickly. They are afraid it will raise taxes and costs. By 2 to 1 they believe it will reduce the care they currently receive. By the way, they are right.

I mentioned the fact that 91 percent have insurance and 84 percent rate it as good or excellent. Fifty-three percent, according to a Rasmussen Poll—and this was just at the end of last week—53 percent disapprove of the Obama health care plan. It is no longer true that the majority of Americans want this plan. Now that they know about it, they don't like it. They want us to deal with the deficit first. That is another one of the things the polls say. By the way, on this idea of a public plan, they oppose it by 50 to 35.

All this has resulted in some reduced polling numbers for the President. His job performance now has actually gone under 50 percent. People disapprove rather than approve 51 to 49. I don't wish him ill, but if he keeps pushing proposals such as this, that approval rating will probably continue to decline.

What have some people said about these bills? Representatives of the Mayo Clinic basically said this won't create affordable care for patients. In fact, it will do the opposite. In other words, it will increase costs. The Congressional Budget Office, in looking at the House bill, said it won't reduce the trajectory of Federal health care spending. In fact, it will increase the budget deficit by \$239 billion. Incidentally, that assumes taxes will be raised by the amount of \$583 billion.

Incidentally, if anybody wants to check what I said about if you like your insurance, you get to keep it, check the University of Pennsylvania Annenberg School of Public Policy Web site.

They have a site called factcheck.org. This is a totally non-partisan organization. They contradict on factcheck.org the notion that if you like your insurance, you get to keep it.

The last thing I want to say about this today is that: it is not enough for us to say what is wrong with the bills that are before us. There are a lot of great ideas Republicans and Democrats have put forth that aren't in these bills. Unfortunately, a lot of amendments were offered in the HELP Committee—for example, to try to inject some of these Republican ideas into the

bill—and they were defeated, every one of them. In fact, when he was a Senator, President Obama voted against several of these ideas.

Let me give you a flavor of some of these things to illustrate that there are a ton of good ideas on how to address access and costs in health care. They don't require us to scrap the entire system we have and superimpose a brandnew system of huge government regulation or a government takeover of health care, which results in these huge expenses, deficits, and dictating what care we can get and what care we cannot. There are solutions that go right to the specific problems.

For example, you never hear the President talking about medical malpractice reform, lawsuit liability reform, or, as some have called it, "jackpot justice." There are a lot of estimates out there that, because of the defensive medicine physicians have to practice, we can save over \$100 billion every year if we have some modest reforms in the lawsuit liability area.

Two very prominent Arizona physicians were in my office this morning, and both of them talked at length about the specific situations that require the practice of defensive medicine because of the fact that maybe 1 out of 10,000 people who come before them may have something go wrong, a lawsuit is filed, and they have to, therefore, go to excessive lengths to protect themselves by ordering all kinds of tests, calling in specialists, and doing things that cost a lot of money, not because they are necessarily needed or provide better care but simply to protect against a lawsuit. Annual premiums of \$200,000 are not uncommon. That is more than most of us make. Before you can start practicing medicine on January 1, you have to pay your liability carrier. The President doesn't even mention liability reform. Let's start with that.

Next is the interstate sale of insurance. This is a great idea. Why do they always vote it down? Because if you actually let insurance in the health field be sold like home insurance, liability insurance, and car insurance—you can buy a State Farm car insurance policy in virtually every State, and it doesn't matter where you move to; you are still covered. Why can't you do that with health care? They don't want that because they want the government to control it instead of allowing private companies to sell it all around the country. If they were able to do that, they could reduce premiums and provide greater access. That is one of the bills the President voted against.

Why not let small business compete like big business with small business plans or association health plans? Basically, you could allow all the small businesses in your town—the Rotary and Kiwanis Clubs—to associate together and create a bigger risk pool, which brings down premiums, just as big businesses do. If you are a small business owner with 30 employees and

one of them gets really sick, your premiums skyrocket the next year. By making a 3,000-person risk pool rather than 30, your premiums will come down. We have tried to get that into the bill. The Democrats say no.

There could be greater affordability by giving individuals the same tax deduction businesses get. The President voted against that when he was in the Senate. We could expand health savings accounts so you can use the money saved there to buy health insurance—pay the premiums. Again, the President voted against that when he was in the Senate.

These are Republican ideas, good ideas, and they have been voted down in these bills.

Here is another one: require insurance companies to share the claims data. One big business told me they couldn't compete and get a lower cost because their current health care insurer wouldn't give them their claims data. That information ought to belong to the company. So we can make that requirement.

Another thing is—the last thing I will mention—we need to encourage less first-dollar coverage. Our automobile insurance would be very expensive if we insisted that it cover every tire we have to buy or every battery we replace or any other thing we do. Yet with health insurance we complain about a \$15 or \$20 copayment or a deductible of \$50. It is common to have a \$500 deductible or even a \$1,000 deductible on your car insurance. Certainly, health care ought to be more important to us than owning a vehicle.

These are just some of the comments I have about the reaction my constituents are having to the bills being proposed out there and the fact that they want to slow it down and look at it carefully because they are concerned about the cost of it, the increase in the Federal deficits, the increased taxes that will result, the government takeover, and that the net result will be our health care will be rationed, we will have delay and denial of care, and we won't be able to keep the insurance most of us have and like.

Those are legitimate concerns, and they should not be answered by simply saying we have to hurry up and get this done. No, we don't. We need to let the American people evaluate it and have them tell us what they want to be done. I think they have already spoken in some of the polling, and I think it is important for us, therefore, if we approach our duties the way we are supposed to here, by carefully considering what our constituents want, asking whether we can solve some of the specific problems with, for example, some of the ideas I laid out—good Republican ideas—rather than having to throw out the baby with the bathwater, tossing overboard what we know works for most people most of the time just because it doesn't work for everybody all of the time, in exchange for a new government takeover—it is a bad bargain.

I urge my colleagues, in the last week or two before the August recess, we have to start planning for opportunities to visit with constituents over the recess, get the information together so we can present it to them and they can tell us what they think about these ideas. I suspect that, at the end of the day, they will say they don't want a government takeover, just fix what needs to be fixed and leave the rest of it, which works, alone.

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

Mr. INHOFE. Mr. President, first, let me say I agree with the points of my friend from Arizona. They are significant. He saved the best until last, because we hear people say the Republican Party doesn't have any answers, when we do have answers. There are real reforms we have tried, and they have worked. The health savings accounts—we tried that on a pilot project basis, and it was tremendously successful.

Health coverage and health services are the only things in this country on which individual decisions can be made that would encourage us to save what we are spending. There is no other product or service out there that doesn't have some kind of a competition.

I think it is only natural, if you have an insurance policy that covers all these things and you find out you have a problem, rather than worry about what it is going to cost or what treatment to get, you go out and get it all because it doesn't cost you anything. That is one of the problems you have. Health savings accounts have been successful. In fact, we have none of this stuff.

In the discussion they have had on socializing medicine, they have not talked about medical liability or malpractice. The Senator from Arizona did a very good job talking about this issue. Just imagine, a doctor has to pay \$200,000 upfront before he can do anything for an entire year. Who pays that? It is not the doctor; it is everybody else whom he is treating. That is where you get into the real need for reform.

We have a system that has worked very well.

By the way, I inquire of the Chair, are we in morning business?

The ACTING PRESIDENT pro tempore. Yes.

Mr. INHOFE. Mr. President, I ask unanimous consent to be recognized for such time as I shall consume.

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

SUBJECTS TO CONSIDER

Mr. INHOFE. Mr. President, I have three subjects I think we need to talk about during the August recess. I want to touch on each one.

The Senator from Arizona has already touched on the health care issue

that is out there. I don't think Arizona and Virginia are all that different from my State of Oklahoma. That is all people talk about when I go back. They want to know: Am I really going to have a government bureaucrat standing between me and my health provider? So those are huge issues. I never thought we would be dealing with that in this country, but we are.

What I want to pursue is, I get very upset when I hear people on the other side of the aisle say we have to do something to stop our dependency on the Middle East for our ability to run this machine called America. Here are a couple. Many people don't want to drill, don't want oil, gas, nuclear, or coal—they don't want all these things. If you don't want them, how do you keep the machine going? The answer is that you cannot. The day will come when maybe wind energy or solar energy or renewables will take care of our needs, but that is down the road. That will be 30, 40, 50 years from now. In the meantime, we have to produce the energy to run this machine called America.

One of the things is a little bit technical, but I think that since it is looming out there, it needs to be talked about. Of course, I am sensitive to this issue, being from Oklahoma, which is an oil State; we produce oil. I have looked at one of our systems that is used to get the most oil and gas out of oil.

At this point, I will yield to the Republican leader, and then I will continue my remarks.

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

Mr. MCCONNELL. Mr. President, I thank my friend from Oklahoma. I will be brief. I appreciate the opportunity to work in my comments. Thank you so much.

HEALTH CARE WEEK VIII, DAY I

Mr. MCCONNELL. Mr. President, the American people want health care reform—and they want us to take the time we need to get it right. As I have said repeatedly, and as an increasing number of Senators and Congressmen from both sides of the aisle are also now saying, the last thing Americans want is for Congress to rush through a flawed bill that would make our health care system even worse just so politicians in Washington can have something to brag about at a parade or a press conference.

The President and some Democrat leaders in Congress now acknowledge that getting health care reform right is more important than rushing through some slipshod plan no one has even looked at and calling it reform. Last week, the President said he wants to get health care reform right and that the most important thing is that Members of Congress continue to work together on the difficult issues in this debate. And one senior Democrat said

last week that "it's better to get a product that's based on quality and thoughtfulness than on trying to just get something through."

Republicans agree, and so we are encouraged to hear our friends on the other side acknowledge that health care reform is too big, too important, and too personal an issue to rush.

In the coming weeks, Congress should work to achieve real reforms that actually address the problems in our health care system without tampering with the things that Americans—and many other people from around the world—like about our health care system and can no longer find in other countries.

The American people want health care that is more affordable and easier to obtain. What they don't want is a government takeover of health care that costs trillions of dollars, adds to our unsustainable national debt, forces them off the health insurance they have, leaves them paying more for worse care than they now receive, and leads to the same kind of denial, delay, and rationing of care we see in other countries.

One thing Democrats and Republicans should be able to work together on are practical ideas the American people support, such as reforming malpractice laws and getting rid of junk lawsuits; promoting wellness and prevention programs that encourage people to make healthy choices like quitting smoking and fighting obesity; encouraging more robust competition in the private insurance market; addressing the needs of small businesses through new ideas that won't kill jobs in the middle of a recession; and leveling the playing field when it comes to taxes. Right now, for example, if your employer offers health insurance, they get a tax benefit for providing it. If they don't, and you have to buy it yourself, you don't get the same benefit they do. In my view, this isn't fair, and we should change it to make it fair.

These are commonsense ideas that would enable Republicans and the increasingly vocal block of skeptical Democrats to meet in the middle on a reform that all of us want—and that all Americans could embrace.

The President has already acknowledged that both Democratic bills working their way through Congress are not where they need to be. In fact, by the President's own standard that any health care reform must not increase the national debt and must reduce long-term health care costs, he would not even be able to sign either of these bills we have seen so far.

According to the Director of the Congressional Budget Office, both bills would lead to an increase in overall health care costs. Just this weekend, the CBO said there is a high probability one of the administration's central proposals for reducing long-term costs would not lead to any savings in the near future and would generate only modest savings in the future.

Moreover, even if this proposal did generate any savings, they would likely be dwarfed by the new spending and deficits in the Democratic bills we have seen. It is like charging a new Cadillac to the family credit card and getting excited about saving a few dollars on the cup holder.

On top of that, the CBO says both bills would add hundreds of billions of dollars to the debt. Simply put, these bills are moving in the wrong direction and would make the problems in our health care system even worse than they are today.

So it is clear we need to hit the restart button and begin working on real reform that would address the problems in our health care system. Americans want the two parties to work together on something as important and as personal as health care reform. Embracing the ideas I have mentioned and finding responsible ways to pay for reform are a good place to start.

Mr. President, I yield the floor and thank again my colleague from Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first, I thank the minority leader for his comments. I said before he came in that there is no issue more meaningful to our people in Oklahoma than health care. I think there is an awareness. If you look at the polling data that was given by the Senator from Arizona, people are now aware this is not the way we should go.

We do have good ideas on this side of the aisle in terms of the health savings account, medical malpractice, and small businesses getting together to resolve this problem.

OIL AND GAS EXPLORATION

Mr. INHOFE. Mr. President, a surprise to a lot of people as to what we can do in the oil and gas business when we are concerned right now about the problem we have—our dependence on foreign countries for the ability to run this machine called America—is that we actually could resolve that problem. We could produce enough oil and gas and all the other resources I mentioned earlier so we would not have to be dependent on the Middle East for anything.

Increasing attention has been given to hydraulic fracturing, a key production method which aided in U.S. production of oil and gas from more than 1 million wells and continues to aid in the production from over 35,000 wells a year.

Hydraulic fracturing is a system that forces water into the ground to release oil and gas coming up. In fact, there are two things that open our potential. One is horizontal drilling and the other is hydraulic fracturing. It is a 60-year old technique. It has been responsible for 7 billion barrels of oil and 600 trillion cubic feet of natural gas. The National Petroleum Council reports that

60 to 80 percent of all wells in the next 10 years—most of these are gas wells—will require hydraulic fracturing to remain productive and profitable.

The first use of hydraulic fracturing was near Duncan, OK, in my State, way back in 1949. Since that time, companies such as Oklahoma's Devon and Chesapeake have perfected the practice. Very simply, it is the temporary injection of mostly water with sand, nitrogen, carbon dioxide, and other additives to fracture and prop open a ground formation to improve the flow of oil and gas through the rock pores and increase oil and gas production. Mr. President, 95 percent of the fluid is water; 99 percent is water and sand. We are talking about putting in the water and sand that would already be there. Hydraulic fracturing is used for both oil and gas production, but I would like to focus mostly on natural gas.

I have kind of good news and bad news. First, let me tell you the good news.

The Potential Gas Committee at the Colorado School of Mines reported in June that the United States has—it is kind of hard to talk about figures such as this—1,836 trillion cubic feet, or 1.8 quadrillion cubic feet, of technically recoverable natural gas. This is the highest reserve total ever reported by this organization in the last 44 years.

When the U.S. Department of Energy proven reserves are added to the total, the future natural gas supply of the United States is over 2,000 trillion cubic feet. At today's rate of use, that is enough natural gas to meet demand for the next 100 years. Only 1 trillion cubic feet of natural gas can heat 15 million homes for a year or fuel 12 million natural-gas-powered vehicles for a year.

T. Boone Pickens is often quoted in this Chamber. He characterizes the reserves this way: 2 quadrillion cubic feet of gas is equivalent to Saudi Arabia's total petroleum reserves.

I guess what we are saying is people are complaining we are importing from the Middle East oil and gas, and then they find we have it all right here. We don't have to do it. If the argument is, we don't want to use oil and gas which we think pollutes—which it does not—if that is their argument, then why are we willing to import it from Saudi Arabia and the Middle East? We can produce it right here in the United States.

Much of the increase noted in the news report comes from estimates of shale gas found in formations throughout the United States. In fact, shale gas accounts for one-third of America's total gas reserves. Again, we are talking about natural gas, which is very low in fossil fuels, burns very cleanly, very inexpensively, and certainly, as we can see by this chart, is very abundant.

The U.S. Department of Energy reports that by 2011, most new reserves growth will come from nonconventional shale gas reservoirs. The Amer-

ican Petroleum Institute forecasts that unconventional gas production, such as that from coalbed methane, or CBM, and shale will increase from 42 percent of total U.S. gas production to 64 percent in 2020. However, shale resources are largely only economically and technologically available due to hydraulic fracturing, that technique of forcing the gas out of the ground.

The good news does not only involve oil and gas reserves, it also means good news for jobs. For example, the 10,000 wells producing in 14 counties in north Texas, Barnett shale—Barnett shale is the type of shale that is characteristic in the northern part of Texas—in 14 counties, they are responsible for 110,000 jobs and \$4.5 billion in royalty payments. That is the people who own the land. That is a property rights issue. They account for 8 percent of the personal income, 9 percent of employment, and over \$10 billion in increased economic activity in north Texas.

The Haynesville shale in Louisiana has created 33,000 jobs, \$2.4 billion in business sales, \$3.9 billion in salaries, and \$3.2 billion in royalty payments. This is the economy we are talking about. We are talking about two separate issues: one is making us independent, the other is doing something for the economy.

People look at these things and say: Why in the world will the Democrats in this Chamber not allow us to drill offshore, won't allow us to get into shale production in the Western United States, and yet they complain about the fact we are importing our oil and gas from the Middle East?

The IPAA reports that the Marcellus shale in Pennsylvania and New York contains 516 trillion cubic feet of natural gas, which is enough to satisfy the U.S. demand for more than 35 years—in two States, Pennsylvania and New York, enough to satisfy our needs for the next 35 years.

A 2008 report on the Marcellus shale attributes production in the Marcellus to two key methods. One is hydraulic fracturing, again, the system used to make sure we are able to retrieve, to produce this shale. Oil and gas development employs more than 26,000 and continued development in the Marcellus shale is forecasted to create over 100,000 jobs. These jobs pay more than \$20,000 above the average annual salary in Pennsylvania. We have New York and Pennsylvania, two States—they do have economic problems. This is a way to produce 100,000 jobs, and those jobs average \$20,000 a year more than the average job in Pennsylvania and New York.

The Walton School of Business at the University of Arkansas recently completed an economic forecast of the Fayetteville shale. It estimates a business and capital investment in the area of \$22 billion, the creation of 11,000 jobs, and new State revenues of more \$2 billion by 2012.

We are talking about just in the State of Arkansas. In my State of

Oklahoma, we have the Woodford shale, which is pictured here and extends through southwest Oklahoma.

In Oklahoma, exploration of natural gas accounts for 80 percent of the State's energy production and over 50,000 people are directly employed by the oil and gas industry. One in seven jobs in Oklahoma is directly or indirectly supported by the crude oil and natural gas industry because we rank fourth in the Nation for natural gas production and fifth in crude oil.

Oklahoma received \$1.3 billion in taxes directly from oil and gas production in 2009. In fact, oil and gas account for 25 percent of all taxes paid in my State of Oklahoma.

These reserves mean domestic energy production and jobs, but now I have bad news. Another reason hydraulic fracturing has received increasing attention is because some Members of Congress want to subject it to new Federal regulation, specifically the Safe Drinking Water Act, by claiming the practice endangers drinking water sources. This Congress, House Members from Colorado and New York and Senate Members from Pennsylvania and New York have introduced legislation imposing new Federal regulation. Some of these Members claim that allowing the practice is a loophole in the Federal law and that it is free of regulation.

Last Congress, at a House hearing, the current chairman of the House Energy and Commerce Committee complained about hydraulic fracturing:

Oil and gas companies can pump hundreds of thousands of gallons of fluid—containing any number of toxic chemicals—into sources of drinking water with little or no accountability.

This is completely false. Nothing could be further from the truth. As former chairman and the current ranking member of the Senate Environment and Public Works Committee, I have a history of working on environmental and energy issues. I can tell you new Federal regulation of hydraulic fracturing would be a disaster.

The Safe Drinking Water Act was enacted in 1974. It was enacted to establish drinking water standards and to control permanent disposal of waste by underground injection. By 1974, hydraulic fracturing had been in commercial operation for 25 years. This law was not designed nor intended to regulate the practice, and the legislative history demonstrates that. The 1974 conference report states that none of the act's underground injection provisions are to "needlessly interfere with oil and gas production." That was in the law in 1974.

The 1980 amendments were probably the most significant until 2005 for clarifying the act's application to oil and gas operations. The 1980 amendments created a new section 1425 to allow States to regulate underground injection from two types of oil and gas operations known as injection wells and disposal wells. However, given the

chance to additionally address hydraulic fracturing, Congress declined. In the 2005 Energy bill, Congress specifically clarified the act is not intended to apply to hydraulic fracturing.

Everything all the way up from 1950, all the way up to the present time was saying the act was not intended to apply to hydraulic fracturing. There are a myriad of Federal statutes, such as the Federal workplace rules, the Emergency Planning and Community Right to Know Act, the Toxic Substances Control Act, among others, which regulate the storage and disposal, transporting, handling, and reporting of chemical use. Federal law requires disclosure of any release to the environment. Those statutes overlay State laws which also include extensive rules permitting oil and gas drilling and production. No state has been required to regulate hydraulic fracturing under the Safe Drinking Water Act with the exception of Alabama.

The Eleventh Circuit Court in Alabama issued an opinion in 1997 ignoring legislative history, oil and gas industry practices, and the clear text of the law, finding that Alabama should subject hydraulic fracturing in coalbed methane production to the Safe Drinking Water Act. However, hydraulic fracturing has not been subject to the Safe Drinking Water Act and is not correctly governed by the act.

I am not alone in this opinion. President Obama's energy czar agrees with me. In 1995, as EPA Administrator—during the Clinton administration—Carol Browner wrote in response to litigation that Federal regulation is not necessary for hydraulic fracturing. She correctly made the point that the practice was closely regulated by the States and "EPA is not legally required to regulate hydraulic fracturing." Most importantly, she further wrote that there was no evidence that hydraulic fracturing at issue resulted in any contamination or endangerment of underground sources of drinking water. Now, this is Carol Browner. That is the current energy czar serving in the White House.

Following the 1997 litigation in Alabama, I introduced legislation in 1999 with Senator SESSIONS and again in 2005 clarifying that hydraulic fracturing is not correctly regulated by this act. In March of 2002, the Senate spoke on this issue voting 78 to 21 on Senator BINGAMAN's amendment, which I cosponsored, to study "the known and potential effects on underground drinking sources of hydraulic fracturing." That amendment ultimately did not become law, but in June of 2004, the U.S. Environmental Protection Agency gave us the answer. It issued its lengthy report, which EPA began in late 2000 to determine if underground drinking water sources have been or are endangered from the use of hydraulic fracturing from coalbed methane production. The EPA study of coalbed methane wells is particularly impor-

tant because the CBM wells are shallower, meaning they would be closer to the underground drinking water sources than other conventional or unconventional oil and gas well production.

In other words, the other production is down much deeper than that which uses the technique of hydraulic fracturing. These are deep wells. In fact, most "fracked" wells—that is what they are called—are hundreds of thousands of feet deep and well below drinking water sources. In this 2004 report, EPA conducted a review of all 11 major coal basins across the country and of 200 peer-reviewed publications. It reviewed 105 comments in the Federal Register. It requested information from 500 local and county agencies in States where CBM production occurs. It interviewed 50 local and State government agencies, industry representatives, and 40 citizens groups which alleged drinking water contamination from hydraulic fracturing. After completing its 4-year study—a 4-year study—the EPA concluded:

The injection of hydraulic fracturing fluids into CBM wells poses little or no threat to underground sources of drinking water and does not justify additional study at this time.

EPA had planned to study contamination in a two-phase study. Following these findings, the EPA did not even initiate the second phase of the study. In fact, it was so strong that they didn't even do the next study.

This is a very strong statement. In fact, in hydraulic fracturing's 60-year history there has not been a single documented case of any kind of contamination. Mr. President, that is 60 years. As early as 1998, the Ground Water Protection Council conducted the first survey of the 25 States in which hydraulic fracturing for oil and natural gas production occurs for any complaints of underground contamination. The survey reported no instance of contamination from the practice. In 2002, the IOGCC, representing 37 States, conducted its own survey making the same findings. On June 12, the Oklahoma Corporation Commission addressed the issue of hydraulic fracturing again in correspondence with these 37 States. The Corporation Commission wrote that it has been regulating oil and gas drilling and production for 90 years, which has included tens of thousands of hydraulic fracturing operations over the past 60 years. The commission wrote:

You asked whether there has been a verified instance of harm to groundwater in our state from the practice of hydraulic fracturing. The answer is no.

States have been regulating oil and gas exploration and production for years. The Department of Energy and Ground Water Protection Council released a report in May titled "State Oil and Natural Gas Regulations Designed to Protect Water Resources," where it described State regulations which require multiple barriers, casings, and

cement reinforcement to protect against groundwater contamination. Fracturing involves removing thousands of gallons of waters from the well which includes the fracturing fluids. Once these fluids are returned to the surface, regulations require they are treated, stored, and isolated from groundwater zones. All these processes together work to significantly reduce the risk to groundwater.

This DOE and Ground Water Protection Council report ultimately concluded that Federal regulations on fracturing would be “costly, duplicative of State regulations, and ultimately ineffective because such regulations would be far removed from field operations.” Equally interesting, the report also concluded—and keep in mind this is the report of the Department of Energy and the Ground Water Protection Council—the “only alternative to fracturing in reservoirs with low permeability such as shale would be to simply have to drill more wells.” In other words, if we are not able to get these wells to produce a lot of shale, we would have to drill a lot of wells in their place.

These findings mirror the EPA’s 2004 report of hydraulic fracturing in CBM production. EPA noted that fracturing involves the removal of thousands of gallons of ground water. This removal includes the fracturing fluids and the possibility that fracturing chemicals affect ground water. EPA also concluded that the low permeability of rock where hydraulic fracturing is used acts as a barrier to any remnant of fracturing chemicals moving out of the rock formations, as has been proven.

None of these findings are new. In the 1980 amendments to the Safe Drinking Water Act, Congress acknowledged that “32 States that regulate underground injection related to production of oil and gas believe they have programs already in place to meet the requirements of this Act. States should be able to continue these programs unencumbered with additional Federal requirements.”

We need to recognize that in considering additional Federal regulation we are experimenting with disaster. In January, the DOE released a report by Advanced Resources International, which evaluated the economic and energy supply effects on oil and gas exploration and production under a series of new regulatory scenarios. One scenario evaluated the effects from new Federal regulation of hydraulic fracturing. According to the report, the largest cost for new unconventional gas wells would be from any new Federal regulations on hydraulic fracturing. The report concluded these costs would amount to an additional \$100,000 for each well in the first year alone.

Among other factors, this report concludes that increasing Federal regulations on hydraulic fracturing would reduce unconventional gas production by 50 percent over the next 25 years. Even

more recently, the American Petroleum Institute released a report in June which only evaluated the effect of increased Federal regulations and the effect of eliminating the practice of hydraulic fracturing altogether. The report determined that through duplicative Federal regulations, the number of new oil and natural gas wells drilled would drop by 20 percent in the next 5 years.

Should hydraulic fracturing be eliminated, new oil and gas wells would drop by 79 percent resulting in 45 percent less domestic natural gas production and 17 percent less domestic oil production.

It would be a disaster to impose new Federal regulations. They are talking about doing that now. They talked about it a few years ago. Every report has discouraged that from happening. Again, I am not alone in this opinion. Colorado Governor Bill Ritter recognizes the value of the practice. In the Denver Business Journal, the Governor characterized the bills pending in Congress imposing new Federal regulations on hydraulic fracturing as “a new and potentially intrusive regulatory program.” That was Governor Bill Ritter. A Colorado newspaper recently reported a number of Colorado counties have adopted resolutions against the pending Federal bills. States are passing their own resolutions opposing new Federal regulation of hydraulic fracturing.

For example, in March the North Dakota Legislature passed a concurrent resolution—I say to the Senator from North Dakota—to not subject hydraulic fracturing to needless and new Federal regulation. North Dakota is home to the Bakken shale, where oil wells are reported to be producing thousands of barrels a day.

America has tremendous natural gas reserves. The exploration and production of these reserves using hydraulic fracturing has been regulated by the States and conducted safely for 60 years. The oil and gas industry contributes billions in State and Federal revenues each year and billions in salaries and royalty payments. The oil and gas industry employs 6 million people in the United States. When the United States is approaching 10 percent unemployment, and when we want energy security and independence from foreign energy, why would we want to go out of our way to restrict an environmentally and economically sound means to extract our own resources—a means that has demonstrated effectiveness and safety for 60 years?

The oil potential in ANWR would produce 10 billion barrels or 15 years’ worth of imports from Saudi Arabia. The RAND Corporation has reported that the new potential production in just Utah, Colorado, and Wyoming would be around 1 trillion barrels of oil. That is three times Saudi Arabia’s oil reserves and more oil than we are currently importing from the entire Middle East. But the Democrats will

not let us produce. We are currently the only country in the world that doesn’t develop its own resources. In fact, the President’s budget imposes \$31 billion in new taxes on oil and gas development. We must not impose any new—

The ACTING PRESIDENT pro tempore. The morning business period is closed.

Mr. INHOFE. I will finish this last sentence, if it is all right.

We must not impose new burdens. This is a procedure that is necessary for us to put ourselves in a situation where we can become energy independent, and I encourage all my colleagues to look very carefully at the one thing that is going to give us that independence, and that is this procedure called hydraulic fracturing.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is concluded.

ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 3183, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3183) making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

AMENDMENT NO. 1813

(Purpose: In the nature of a substitute)

Mr. DORGAN. Mr. President, I call up the substitute amendment to H.R. 3183, which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 1813.

Mr. DORGAN. Mr. President, I ask unanimous consent to dispense with the reading of the substitute amendment.

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

(The amendment is printed in today’s RECORD under “Text of Amendments.”)

Mr. DORGAN. Mr. President, this is the Energy and Water Development Appropriations Subcommittee bill that I bring to the floor this week with my colleague, Senator BENNETT, from Utah. I am chairman of the subcommittee, Senator BENNETT is the ranking member, and we have worked on the bill for some long while.

On July 9, 2009, by a vote of 30 to 0, the committee recommended the bill,

as amended, be reported to the Senate. That is, the full Appropriations Committee has recommended this bill, on a bipartisan basis, without objection, 30 to 0.

I want to thank both Chairman INOUE and Vice Chairman COCHRAN for their support of this bill, and I want to especially thank Senator BENNETT for his work with me in developing the legislation.

Let me, perhaps as I begin rather than end, thank the staff of the subcommittee: Scott O'Malia, on the minority side; Doug Clapp, Roger Cockrell, Barry Gaffney, Franz Wuerfmannsdobler, and Molly Barackman.

There are many staff on both sides who have worked very hard. Putting legislation of this type together is not easy. We are working with limited resources, at a time when we have relatively difficult circumstances, to try to deal with Federal budget deficits and other issues, but we have put a bill together that has garnered bipartisan support.

The allocation for this bill is just under \$34.3 billion. With score keeping adjustments, it comes down to about \$33.75 billion. The total funding for our bill is 1.8 percent less than the President's budget request and just 1.4 percent over the regular energy and water bill of 2009. That means there is a very modest increase for the programs in this legislation.

Let me say generally this legislation deals with the energy and the water programs across the country. Energy and water are very important to this country's long-term future. What we are working to support is jobs and the economic health of our country as well as an adequate energy supply dealing. These energy challenges we face from being overly dependent on foreign oil doing something about climate change require action. We are dealing with energy accounts in this bill that are very important for the country.

We have tried to make funding determinations about them that we think move this country in the right direction and help make us less dependent on foreign sources of oil. That means that we have, in related authorizing legislation, actually expanded drilling and the determination to try to find additional supply in this country. Fossil energy from coal, oil and natural gas is going to continue to be used in the future. But we need to use them differently.

This legislation includes opportunities to do a range of activities that I believe will be in the country's best interests. Working with Senator BENNETT, we know the legislation dealing with energy and water require substantially greater resources. We have far more water projects underway in this country than we can possibly fund in the short term. I believe we have something close to \$60 billion of unfunded water projects. The Corps of Engineers, and particularly the Bureau of Rec-

lamation, especially for western America, are charged with funding these projects.

Then, on the energy side, the accounts dealing with efficiency and reliability and a wide range of energy accounts—all of those accounts understand and recognize that we do not have unlimited amounts of money. Our country has very substantial and growing budget deficits because we are in a deep recession.

My colleague from Oklahoma was speaking as I came to the Chamber. I agree with most of what he described with respect to hydraulic fracturing. He is describing something that affects our ability to continue to produce a domestic supply of oil and natural gas. My colleague should know we have had now from both the previous Presidents that we zero out the research and development in oil and gas development. The current President's budget seeks to cut the oil program. My colleague and I have restored the funding for that. One of the reasons we have done it is our country leads the world, for example, in unconventional and ultra deep water drilling. We need to retain program funding to keep that advantage.

We need to produce more here at home, and we have added the funding back. As I indicated, both the previous administration and this administration decided not to support the research and development funding for oil research and development.

The description of the shale formations that Senator INHOFE talked about earlier remind me that 5 to 10 years ago we could not drill in these formations. They are now delivering substantially new resources. That energy was not accessible to this country because we didn't have the technology and the capability. My colleague described the Bakken shale in North Dakota, which I want to describe in a moment. I think it is so important for us to have the research and development funding which current technology benefitted from in the past. With sustained investments, we might have future technology options available as well.

To go to the previous point, the Bakken shale is a formation 100 feet thick, and it is 10,000 feet underground. To drill through that 100-foot-thick seam, they have divided it into thirds—top third, middle third, and bottom third. They go down two miles with one drilling rig, 10,000 feet down, searching for the middle third of a seam of shale that is 100 feet thick. They do a big curve when they get down two miles, then they go out two miles. The same drilling rig, goes down two miles then makes a large curve and goes out two miles, following the middle third of a seam a hundred feet thick called the Bakken shale.

A few years ago I asked the U.S. Geological Survey to do an assessment of what is recoverable in the Bakken shale. They came back with their estimate after a 2-year study, saying there

are 4.3 billion barrels of recoverable oil using today's technology. It is the largest assessment of recoverable oil in the lower 48 States ever made in the history of our country.

None of that was available to us a decade ago. It was there, but it was not available to us. How do we get that oil? When they drill down with a drilling rig, it takes about 35 days to drill that hole, then fracture it under high pressure—hydraulic fracture, they call it. After that, they tear down that rig and move it away a ways and drill another hole—every 35 days. The hydraulic fracture allows that rock formation to be fractured so that the oil drips and then is extracted from the well. They are pulling up oil out of those wells, in some cases 2,000 barrels a day. The key to that is, No. 1, have they carried out the research and development so that we lead the world in the ability to do that kind of very sophisticated exploration. We continue to put that funding in this bill and have always had it in this legislation. That is what has opened up this unbelievable opportunity.

The second half of it, as my colleague described, is not something we are doing in this bill, but the ability to continue hydraulic fracturing, decade after decade, I think for nearly 50 years, I am not aware of any evidence that there is any contamination of groundwater with hydraulic fracturing when companies have followed the appropriate guidelines and regulations.

I have been describing one small part of what Senator BENNETT and I have done with respect to increasing our domestic energy needs in this bill.

We also want to encourage the development of renewable energy. We have done a lot of things in this legislation to do that. We want to encourage the ability to use our most abundant resources, such as coal, but we must use them differently. That means, if you are going to have a lower carbon future you have to decarbonize the use of coal. So we need to make substantial investments to be able to decarbonize the use of coal.

I think we can do that. Some say let's give up on it. I say let's find a way to use our most abundant resource by decarbonizing it so that we can move to a low carbon future to protect our planet.

We are doing a lot of things in this legislation that I think move this country in the right direction for a better and a more secure energy future. When I talk about energy and say that nearly 70 percent of our oil now comes from outside of our country, I think most people would look at that and say that makes us vulnerable. That is an energy security issue. It is also a national security issue. If, God forbid, somehow, some way, someday, someone shuts off the supply of foreign oil to our country, this economy of ours would be flat on its back. So I think everyone—the previous administration, this administration—believes we must be less dependent on foreign energy.

The other thing that is important to understand is, although about 70 percent of our oil comes from outside our country, nearly 70 percent of the oil is used in our transportation fleet. We are doing things in this appropriations bill that moves us toward a different kind of transportation fleet, an electric-drive fleet, for example. If we are using 70 percent of our oil for transportation in this country, how do we make us less dependent on foreign oil? Convert; move to something else.

We have funding in this legislation and we had funding in the Economic Recovery Program for battery technology and for a whole series of things that help accelerate the movement toward an electronic transportation system.

All of these things are things we can do. It is only a matter of establishing public policy that encourages it, public policy that is supportive of the direction we want to go.

I am going to be describing in some detail some of the accounts. I have talked about the energy piece of this a bit. We have programs in here for electricity, fossil energy, energy efficiency and renewable energy—small little things that people don't think much about.

Energy efficiency: Almost everything we use these days—a refrigerator, a dishwasher, an air conditioner—all of the appliances are much more efficient than they have ever been. I recall some years ago when I was supporting and pushing something called a SEER 13 standard for air conditioners—a SEER 13 standard. You would have thought we were trying to bankrupt the country by insisting on a much higher standard of energy efficiency for air conditioners. We have gotten to SEER 13 and are looking beyond that now, but we have pushed standards so that when you put a new refrigerator in your kitchen these days it uses so much less electricity because it is so much more efficient.

I recognize—someone told me this a while back—yes, we are putting these unbelievably efficient refrigerators in kitchens, and then they take the old refrigerator and put it in the garage to store beer and soda. I recognize we need to get rid of those old refrigerators, perhaps, but it is people's right to move them into the garage.

My point is, these smaller issues we are funding, energy efficiency standards for appliances are very important. When we get up in the morning we flick a switch and a light goes on. We turn on an electric razor and never think much about what makes it go. We plug it into a wall. We go down and put something in the toaster and the bread toasts because there is electricity. We put a key in the automobile, and we drive off to work.

As Dr. CHU says, 2,000 years ago, normally when you would go look for food someplace, 2,000 years ago you would get on one horse and go look for something to eat. Now, of course, we get in

modern conveniences and we take 240 horses to go to the 7-Eleven or grocery store. That is the way our engines work and use energy.

But we are required now to be smarter and use energy in a different way. For a wide range of accounts, my colleague Senator BENNETT and I will begin describing some of these accounts in more detail in between other presentations. With the funding in this legislation, we are trying to change the way we use energy: Develop a more abundant supply of energy, including changing the way our vehicle fleet is powered. One issue with respect to the transportation fleet is moving toward a hydrogen and fuel cell future, I think a future beyond electric drive. Still, hydrogen is everywhere; it is ubiquitous. I believe a hydrogen fuel cell future is something our children and grandchildren will likely see realized and will be very important to this country.

The administration, in its budget request for this fiscal year to the Congress decided it would zero out 189 existing contracts in hydrogen and fuel cell program. We included the money again because we don't think that is wise to cut ongoing work.

I agree in the short term we are going to move toward an electric drive transportation system, but, in the longer term, we need to continue the research toward hydrogen and fuel cells, and we included that money in this bill.

Let me turn for a moment—I am going to come back to some energy issues a little later, after Senator BENNETT talks about this bill as well. I want to talk about water, because this bill, after all, is also about water. As all of us who have studied history know, water is the subject of great controversy. Water is very important. So many things related to development and jobs in this country relates to accessible water.

We have issues in this bill dealing with the Corps of Engineers and the Interior Department's Bureau of Reclamation with respect to water. These address storing water, moving water, dredging water in ports and channels so that commerce can occur, and much more. In some cases, we must address not having enough water or too much water. We have a lot of issues.

As I indicated earlier, we have far more water projects than we can possibly fund. Senator BENNETT and I decided we simply could not fund what are called new starts in construction and investigations this year. We hope to do that next year, but we could not do it this year. We didn't have the money. We think it is far better to continue funding for existing projects and try to complete some of the projects underway and then proceed with new starts next year. We had 92 requests for new projects starts. We have a \$60 billion backlog and 92 requests, some of which came from the President. We believed we could not do it. I wish we could, but we could not do it.

I also want to make a point that there are, in this legislation especially, legislatively-directed proposals, that is the Congress itself directs certain funding. The President sent us proposals, particularly on water projects—energy projects as well, but especially water projects. He requested earmarked funding. In other words, the President says, all right, here is what I want you to have for water. These are my Presidential earmarks and how I believe you should spend the water money.

Some of them made a lot of sense. Some of them did not. Senator BENNETT and I also included, in this legislation perhaps more than other legislation, legislative-directed funding on the amount of funding we believed should go to projects.

Because, frankly, I think perhaps Members of Congress have a much better idea of what are the water needs more than the Corps of Engineers, the Bureau of Reclamation, Office of Management and Budget, or the White House. They know which projects will benefit their State's commerce.

So this subcommittee, going back many decades, has had a tradition of legislatively-directed funding toward the highest priorities, particularly in water projects. That makes a lot of sense to me. I assume we may well have some folks come and decide that some of them do not have merit.

It is important to discuss the individual programs for individual legislatively-directed amounts, and we will do that when necessary. But I did wish to say once again that we received a lot of recommendations from the President for earmarking the funding for various projects, and we have included many of these. We have also included projects that were recommended by the Members of Congress that were well underway.

I have other things to discuss, but let me yield the floor because I know my colleague, Senator BENNETT, will want to describe some of this bill as well.

Let me close as I opened by saying it is a pleasure to work with Senator BENNETT on these issues. These do represent investments in our country. Some things are spent and you never get it back, it is just spending. But when you build water projects or invest in the energy further such as through this bill, then it represents investments in the country's future that will provide very substantial dividends for the country for a long time to come.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BENNETT. Mr. President, I appreciate the remarks of my chairman, Senator DORGAN. Even more, I appreciate the hard work he has put in. The level of cooperation between the two of us and between our two staffs is as he has described it. This is a truly bipartisan effort, aimed at trying to solve the problems we face. One demonstration of the fact is that we have, in a bipartisan fashion, come in with a number significantly below that which the

President requested. If it had been a single partisan effort, I am assuming it would have been responsive entirely to the President's request.

As Senator DORGAN has indicated, we have a number of Member-directed items of spending. When people say: Well, where do you get the money for that? The answer is, we have canceled the President's directed orders of spending.

I agree with Senator DORGAN that Members in these areas are closer to the people, closer to the problems, and understand them a little better than the folks downtown.

I recommend passage of the bill to my colleagues. I am delighted with the prospect that it is highly likely this will be done prior to October 1, the start of the fiscal year. That is a goal that has not been achieved in decades and a further tribute to the leadership of Senator DORGAN that we are on that path.

As I have said, the bill provides \$643 million below the President's request. This is the number Senator DORGAN cited, the \$34.271 billion, but it is \$476 million above current year levels. One of the things we did that helps us come in below the President's request was focus on the fact that the stimulus package that passed earlier this year put a great deal of money into these accounts. We did not want to ignore the fact that they had that money from the stimulus bill in coming up with our own figures.

The committee, as Senator DORGAN said, has said no new starts for the Corps of Engineers. I repeat that and reemphasize that because many of the complaints that I think we are going to get on the floor about Member-directed spending are for projects in the Corps of Engineers.

They will say: Well, you are calling for earmarks. You use the dread word for this project and that project. Because we have no new starts, every project we are calling for is an ongoing project. So that if we were to cancel it, it would undoubtedly end up costing more money rather than would be saved if the earmark were to be struck down.

For the Bureau of Reclamation, we are \$55 million below fiscal 2009 levels. Pardon me. The request is \$55 million below the fiscal 2009 level. The committee provides an additional \$110 million to the Bureau. As Senator DORGAN has said, this is the tremendous backlog of underfunded projects. Let us take a sober lesson from what happens when we do not proceed with the proper maintenance in this area.

In my own State of Utah, a privately owned irrigation canal broke and flooded the community of Logan, UT, and tragically, in the process, took the lives of two young children and their mother who were overwhelmed as a result. This is a reminder to us that we have a responsibility to keep this fund going because the human cost can be significant.

These types of accidents are only avoidable if we are vigilant in maintaining the infrastructure and making the appropriate investments. With respect to the Department of Energy, the committee recommends \$27.4 billion which is \$1 billion below the President's request.

Again, this is a demonstration of the fact that we are attempting to be good stewards, that we are paying attention to the fact that the Department of Energy was already the beneficiary of over \$45 billion in supplemental and stimulus funding in fiscal 2009.

Not all of that will be spent in this fiscal year, so that is a little bit of an overstatement of how much they will have to offset. But looking at the amount they had from the stimulus package, we felt we were appropriate in coming in \$1 billion below the President's request.

We do recommend an additional \$100 million for Nuclear Power 2010 in order to complete this project. The bill restores \$50 million funding for the Integrated University Program and Research and Reactor Facilities account to support nuclear engineering and research and training.

That was eliminated in the budget request. I do that partly because I believe in it. I am joined with Senator DORGAN in doing it and also because, in my new assignment, I am taking the place of Senator Domenici, and he will come back and haunt us both if we are not appropriately supportive of nuclear power. His great work in that area is something I think we should carry on.

There are other issues the Senator from North Dakota has already mentioned that I will not touch on as we go along because I do not want to be redundant. We do provide an increase in funding for the Office of Science, \$127 million over the current year levels. I think that is essential to a sustained investment in important scientific facilities that we have throughout the country.

Let's talk about cleanup. There are many Members of the Senate in States that support a strong environmental cleanup program, and the request reduced cleanup funding by over \$200 million from current year levels. Well, we believe the faster we can move on cleanup, the cheaper it will be over the long term because contractors are out of work now. They are anxious to get back to work and they will make low bids and take advantage of that situation.

We recommend \$350 million in additional funding for both defense and nondefense cleanups. Again, there is such an activity going on in my State, and I know that moving ahead and having the funding available now will save us significant amounts long term. So funding has been added for cleanup activities at DOE facilities located in South Carolina, Idaho, Washington, New York, Illinois, Kentucky, New Mexico, and California.

The committee has also restored critical funding in our national security

sites, which was reduced in the President's budget request. An additional \$83 million was added to the weapons account to invest in critical infrastructure and science facilities.

We are attempting to highlight what I consider to be the failure of this administration to address fully spent nuclear fuel and defense waste inventory in this country. Consistent with the President's request, a minimum level of funding has been provided to sustain the NRC license review process of the Yucca Mountain Project.

The Secretary of Energy has determined he will convene a blue ribbon panel of advisers to recommend other disposal options. But while the administration is considering these options, ratepayers across the country are required to pay \$800 million annually to the nuclear waste fund to address spent fuel solutions.

CBO estimates that by the end of the year the unspent balance in this trust fund will be \$23.8 billion. The committee has included language directing the Secretary to conduct an evaluation of the sufficiency of the fund and suspend the annual collection from ratepayers until he has a strategy to address the issue of spent fuel inventory.

Another problem that has arisen that we have dealt with has to do with the funding of pensions. We have provided the Secretary the authority to transfer funding within the Department to mitigate the impact to specific programs. The environmental cleanup mission has been hardest hit by pension shortfalls. The committee has not included any of the proposed budget gimmicks included in the request, and we have rejected a new tax on uranium fuel to pay for the cleanup.

With that, I think I have covered the highlights. I am sure there is more the chairman will talk about. I will listen to what he has to say. If there is any pet project I think needs to be highlighted, I will rise to my feet again. But I wish to summarize that the committee has not included funding for new starts for either Members of this body or for the President. The funding is dedicated to the completion of ongoing projects. We have reduced the amount of Member-directed spending by 8 percent from previous years as we hear the complaint some people have with respect to that process.

We have worked hard to rebalance the administration's request to ensure that investment in the water infrastructure is sufficient. We recognize that we could not accommodate all the needs across the country, so we focused our effort on ongoing projects and forgoing new starts.

I believe this budget strikes an appropriate balance and I recommend its adoption.

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

Mr. INOUE. Mr. President, today the Senate begins consideration of its third appropriations bill for fiscal year

2010. The bill before the Senate provides funding for the Department of Energy, the Army Corps of Engineers and for related agencies. The funding in the bill totals \$33.75 billion. This is nearly \$650 million lower than the administration requested.

As we begin our debate on this bill, I urge my colleagues not to delay action on this measure. The Senate will only be in session for 2 more weeks prior to the August recess. The Appropriations Committee has reported seven bills which have already passed the House and are awaiting Senate action. We need to get this bill passed so that we can move on to the other appropriations bills that are ready for consideration. Passing appropriations bills and providing the funding essential to run our Federal Government is one of the most important duties of this Senate. We need to act responsibly and move this legislation.

All Senators should have an interest in seeing this bill passed. It provides critical funding for our nation's waterways, for safeguarding our nuclear power industry, and for programs to improve energy usage, conservation and discovery. I know of very little controversy associated with this measure. I would ask any Member who is interested in amending this bill to come to the floor today to offer any amendment.

I am very grateful to Chairman DORGAN and Ranking Member BENNETT for their hard work on this measure. The committee strongly endorsed the recommendations in this bill and passed the measure unanimously. I believe this bill deserves the support of all my colleagues. I urge all Members of the Senate to work with the managers and help us attain quick passage.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from North Dakota.

Mr. DORGAN. Madam President, a couple of additional points:

No. 1, the administration's budget to the Congress for this year did recommend an increase in Corps of Engineers funding for water issues. They should be complimented for that. That is a step forward. We have seen relatively flat and underfunded budgets for the Corps of Engineers in recent years. It is encouraging. We added to it, of course, but the investment needed in major water projects to be completed is very important. I appreciate the administration's decision to increase, at long last, the recommendations there.

No. 2, my colleague, Senator BENNETT, mentioned Yucca Mountain. I expect that will be mentioned more than once during this discussion in the next day or so. We are going to see the building of some additional nuclear power plants in this country. The reason is pretty obvious: Once built, nuclear power plants do not emit CO₂ and therefore do not contribute to the warming of the planet. We are beginning to see additional activity. Compa-

nies are preparing license applications now.

Senator BENNETT described the issue of Yucca Mountain. I do want to make a point about that because it is important. I didn't come to the Congress with a strong feeling about building additional nuclear power plants. I have, with my colleague, increased some funding for loan guarantees for nuclear power plants in a previous appropriations bill because I come down on the side of doing everything, and doing it as best we can, to address this country's energy challenges. They are significant and require building some additional nuclear power capacity.

This President campaigned last year against opening Yucca Mountain. It was not a surprise to the American people that he would at this juncture take the position that Yucca is not the place for a permanent repository for high level waste materials. The Secretary of Energy and the administration have recognized that, not proceeding with opening Yucca Mountain, does not mean we don't need an intellectual framework for nuclear waste. They have indicated and committed themselves to that, the development of an alternative framework for how we address the issue of waste. We have to do that because, in order to build plants, we have to establish waste confidence. I am convinced the administration is doing the right thing in the sense that they have said we don't want to open Yucca, but they are saying there has to be an alternative. We are committed to trying to find a solution and explore the alternatives with a blue ribbon commission.

I wish to mention the National Laboratories. This bill funds our national science, energy, and weapons laboratories. These laboratories are the crown jewels of our country's research capability. We used to have the Bell Labs, and we had laboratories that were world renowned, world class, that didn't have anything comparable in the world. The Bell Labs largely don't exist at this point. Much of our capability in science for research and technology exists in these science labs we fund in this bill. I am determined to find ways to make certain those best and brightest scientists and engineers working on the future of tomorrow and the new technologies for tomorrow at the national science laboratories have some feeling of security about their future. The last thing we should want is to see the roller-coaster approach to jobs at our National Laboratories and our science labs.

We had a hearing some while ago in our subcommittee on the issue of how to continue to use coal in the future. That leads to the question of carbon capture and sequestration. I held a hearing in our subcommittee on carbon capture and beneficial use. One of the witnesses from one of our laboratories, Margie Tatro from Sandia National Laboratory, talked about what they are working on. It was breathtaking.

We have this giant problem related to using coal, but it is not an insurmountable problem. She talked about the work they are doing with respect to concentrated solar power to be used in a heat engine to take CO₂ in on one side of the engine and water in on the other side. They fracture the molecules and, through thermal chemical dynamics, they create methane gas from the air. I don't know exactly where all this goes.

Deep in our laboratories are some of the brightest people working on these issues. We will solve some very vexing and challenging energy issues through research and development programs. I look at what we are doing in those areas for energy efficiency and renewable energy such as for hydrogen, biomass and biorefineries, solar energy, wind energy, geothermal energy, vehicle technologies, building technologies, industrial technology, weatherization, State energy programs, advanced battery manufacturing, and more.

All of these issues are investments in the country's future and will, no doubt in my mind, unlock the mysteries of science to give us the capability to do things we did not dream possible. That opens up the opportunity to find new sources of energy, to move us away from this unbelievable dependence on foreign oil, to move toward different constructs in building efficiency, appliances, and new vehicles. That solves a number of things, allowing us to produce more energy, more renewable energy, more fossil energy, but it also allows us to conserve much more because we are prodigious wasters of energy.

I didn't mention one other area of electricity—and it goes with conservation—incorporating smart grid technologies. We will in the future see substantial amounts of smart metering in homes that allows people to change very substantially the way they use electricity in their homes. They have not had, up until this point, that capability, but the capability, because of the research going on and the demonstration programs, some of which we are funding, can increase all across the country in the future. That, too, will invest in making us less dependent on foreign oil.

All of these things play a role in what we are trying to do.

In the electric delivery and energy reliability portion of our bill, we have programs for clean energy transmission and reliability, smart grid, cyber-security for energy delivery systems. They are examples of a wide range of investments in all of these areas that will make this a better country and advance our energy and water interests.

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

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

IN MEMORIAM: WILLIAM PROCTOR JONES

Mr. DORGAN. Madam President, I rise to make a statement in honor and in memory of William Proctor Jones. He died three weeks ago on July 7, the day before we actually wrote and marked up this bill in subcommittee.

Proctor Jones was a longtime staff director of this subcommittee. His death is a great sorrow for our members and staff who worked with him. His life was a great blessing for this country.

He first came to work in the Senate in April of 1961. He went to work for his home State senator, Richard Russell of Georgia. Proctor moved to the Appropriations Committee in 1970 and worked there 27 years until 1997. Since 1973 and beyond and for the majority of his time on the committee, Proctor served as staff director of the Energy and Water Subcommittee.

For decades, as this bill was brought to the floor of the Senate, Proctor Jones was sitting on the floor knowing that he played a very significant role in putting together the investments this country was making in the critical areas of energy and water. Proctor became a very close adviser and close personal friend of Senator Bennett Johnston, the Energy and Water Subcommittee's longtime chairman.

For those of us who knew Proctor and relied upon him, he defined the very best of the term "public servant." He was tireless in his work. He was a master of the budget and the appropriations process and an expert in many policy fields this subcommittee has dealt with over the years. His service made this country a much better place.

This country moves forward because a lot of people do a lot of good things in common cause to make judgments about what will strengthen America. It is often the case that those of us who are elected and serve have our names on a piece of legislation or our names on a report of a subcommittee such as this, but it is also often the case that some very key people who have devoted their lives to good public service played a major role in making good legislation happen. William Proctor Jones is one of those.

Today, as we take up the piece of legislation from a subcommittee he spent decades working on, I honor his memory and thank him and his family in this time of sorrow and thank Proctor Jones for all of the work he did for his country.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I associate myself and those of all minority Members with the comments of the chairman about Proctor Jones. I didn't have the opportunity to work with him as closely as others have, but

the legacy the chairman has described is genuine and real. All of us in the Senate, regardless of party, wish to acknowledge that.

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. DORGAN. 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. DORGAN. Madam President, the Senator from Utah and I would ask of Senators who have amendments to this legislation that if they wish to come now, we would very much like to have amendments offered. Certainly the majority leader has wanted to bring appropriations bills to the floor of the Senate. The chairman of the Appropriations Committee described appropriately, a few minutes ago, the importance of trying to get these appropriations bills completed. So working through the full committee we are winding our way through.

Now Senator REID is bringing them to the floor, and I deeply appreciate his determination to do that. It is a marked departure from what we were able to do previously. We would like to get individual appropriations bills done, get them to conference, have a conference with the House, and get them to the President for his signature. That is the way the Congress is supposed to work. It is the way appropriations bills are supposed to be done.

We will have amendments, I am sure. We were told someone has prepared nearly 20 amendments. But, look, they ought to have that opportunity. In the past couple years they did not have that opportunity. That is what Senator REID is doing now, to say: Bring these to the floor. Give people an opportunity to take a look at what the Appropriations Committee has done. If they disagree, come to the floor with amendments, have a discussion, and vote on the amendments. It is exactly what we should do.

It is a problem, however, that we do not have unlimited time. My hope is—and I think Senator BENNETT's hope is—we could have people come over, offer amendments, and we could finish this bill in the next couple of days. It would be great to finish it late tomorrow night or perhaps Wednesday at the latest. But in order to do that, we would need some cooperation. We would very much ask people to tell us what their amendments are, come over and file amendments, and come and debate the amendments. The point is, we are here and ready, and we very much want to get this piece of legislation completed.

I have described in some respects the urgency of our energy policies in this country. Well, the fact is, passing this legislation, and doing so now, will give us the opportunity early in the fiscal year to have the Department of Energy

and the administration develop energy strategy based on these investments. For the first time in a long time, we will know where we are headed.

I have always felt we ought to be saying: Look, here is where America is headed on energy. Here is what we are going to do on renewable energy. Here is what we are going to do on carbon capture and storage. Here is where we are headed. You can invest in it. You can count on it, believe in it, because this is America's policy. Part of that policy is developed through the authorization committees, and no small part is developed in what we fund in the Department of Energy. Exactly the same is true with respect to water policy.

Let me make this point as well. This country had an economy that fell off a cliff in the first part of October of last year, and we still are in a deep recession. In the middle of a very deep recession, a piece of legislation that is going to provide the funding, hopefully by October 1, to proceed ahead building and creating water projects and other things puts people to work. It invests in the country's economy in a way that puts people to work and provides jobs. That is very important.

For a lot of reasons, again, I commend the majority leader for bringing this to the floor. We will hope for some cooperation. We want amendments, if they want to bring amendments to the floor. We want them today or beginning in the morning. Senator BENNETT and I wish to work with our colleagues to try to review amendments. We wish to work with them. Perhaps they have some ideas we did not think of. We could add to this bill by consent, or others perhaps we can debate and have a vote on.

We want to make that known to our colleagues. We are looking forward to completing this bill in the early part or at least no later than midweek.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—S. 370

Mr. INHOFE. Madam President, I want to spend a little time on a bill that has to do with one of the three major interests we are going to have during the recess. One of the issues is one I feel very strongly about; that is, what is happening right now at Guantanamo Bay. Some refer to it as Gitmo. I have some very strong feelings about that.

I do not know why our President has this obsession that he is going to turn loose or bring these detainees, these terrorist detainees, back to the United States. If you do that, either to try them or to bring them back here, they become magnets for terrorist activity.

We have detained about 800 al-Qaida and Taliban combatants at Gitmo. We have to understand that a terrorist combatant is someone different than you would normally—we are not talking about criminals here. We are not talking about even people who represent countries. We are talking about terrorist combatants. To date, over 540 have been transferred or released, leaving approximately 230 at Gitmo.

Here is the problem we have. If I were making this talk, as I was, about a month ago, I would say we had about 280 detainees at Gitmo. The problem is, you cannot get rid of them by asking some country to take them because the countries will not do it. You do not want to bring them back to the United States because, as I said, that becomes a magnet.

So our President has been, one by one, trying to bring these back, putting them in our system for trial here in the United States. It is important to understand the rules of evidence are different. If you are in a military tribunal, you can dispose of these people. But you cannot do it—for example, hearsay evidence is not admissible in the courts in the United States. So it would not fit in our Federal system.

President Obama has ordered the Guantanamo facility be closed. He has recently given an extension to that.

In 2007, the Senate voted 94 to 3 on a nonbinding resolution to block detainees from being transferred to the United States. It said: Detainees housed at Guantanamo Bay should not be released into the American society nor should they be transferred state-side into facilities in American communities and neighborhoods.

Well, that is very specific. In fact, I had the amendment to do that on the Defense authorization bill only last week. Quite frankly, it was blocked by the Democratic majority.

On May 20, 2009, the Senate voted 90 to 6—that was my and Senator INOUE's language; it was a bipartisan amendment—to prohibit funding for the transfer of Gitmo detainees to the United States. We are hitting them two different ways. One is, we are saying you cannot bring them over here. Second, you cannot try them over here. And now, thirdly, we are not going to pay for any relocation of these people.

Unfortunately, the supplemental appropriations conference deleted that provision. That was a provision that passed 90 to 6, authored by me, INHOFE, and Senator INOUE, the senior Senator from Hawaii. But they took it out. So that means it is not there right now for trials. But the law does block funding for permanently transferred detainees from Gitmo to the United States for the 2009 budget year, which ends on September 30.

The House Appropriations Committee will vote this week on language contained in a manager's amendment proposed by Representative JERRY LEWIS of California prohibiting the administration from spending any money

to move prisoners to U.S. soil. Last Thursday, the Senate Democrats again blocked an attempt to consider an amendment that would have permanently prevented the detainees from being transferred from Gitmo. That was my amendment. It was part of the Defense authorization bill. When President Barack Obama took office, there was one free bed at the supermax prison in Colorado, with a typically long waiting list to move high-security prisoners into supermax.

To understand what this is, the supermax prison is one with the very highest level of security, a place where they might argue that you could put a terrorist there and that terrorist, regardless of how serious he was, is one who would be secure. The problem they are overlooking is, if they are located in the United States, they become a magnet for terrorism.

I know President Obama, at one time, was proposing some 17 sites in America where we could put these Gitmo detainees. One of those happened to be in Fort Sill, in my State of Oklahoma. I went down to Fort Sill to look at our prison facility down there. There is a master sergeant—no, I am sorry, Sergeant Major Carter was her name. She was in charge of the prison. That prison was set up as a normal military prison but certainly not suitable for detainees, not suitable for terrorists. It happens that Sergeant Major Carter—you can call her and ask her about this. She had two tours at Gitmo, and she said: Why in the world are you guys in Washington and this President trying to close Gitmo? It is an asset we need. It is a place where they can be secure. It is a place where they have treated them humanely over the years. Well, anyway, so when you look at what we have here, there are no places that are appropriate.

Assistant Attorney General David Kris testified at the same hearing of the House Armed Services Committee that both civilian and federal jails and military prisons are being considered for potential future incarceration for prisoners facing criminal prosecution, military tribunals or long-term detention without trial, more than 50 have been cleared for release, and an administration task force is sorting through the remaining 229 prisoners to determine their fate. What we are saying is we have already picked the low-hanging fruit. We have already taken care of the problem of those individuals who either a country won't take back or you can find someplace to put them. But the remainder are the real tough guys, the bad guys whom we don't want in our society. Government lawyers in both the Obama and the Bush administrations have said that an unspecified number of detainees should continue to be held without trial, stating that some of the evidence against them will be classified or thin, and the government fears these most dangerous detainees could be released should they be given their day in court; that is, their day in court in the United States.

If you look at the facility they have down there, it is made for this type of detainee. It is one that will allow the security of evidence so it doesn't threaten other people, and it is something that cannot take place in this country.

Johnson also said the Obama administration has not yet determined where it will hold newly captured al-Qaida and Taliban prisoners for extended detention after the Guantanamo Bay prison closes, if it should close. Of course, my effort is to keep it open. So far the only Guantanamo Bay detainee brought to face trial in a U.S. criminal court is Ahmed Ghailani. He is the Tanzanian whom we sent to New York and faces charges in conjunction with the two bombings. We remember the two bombings in Tanzania and Kenya. Federal prosecutors said last Friday they no longer plan to hold Mohammed Jawad, who threw a grenade at a U.S. convoy in 2002, as a wartime prisoner, a signal that the Obama administration intends to bring him to the United States before a criminal court.

Last week, Democratic Members in the House and the Senate said Michigan prisons set to close because of the State budget crunch could take the high-profile prisoners from Gitmo, creating jobs lost in the auto industry.

Let's stop and think that one through. These are elected representatives from the State of Michigan, the two Senators and Representative STUPAK, who are suggesting that we could put those prisoners, these high-level, high-security terrorist detainees in prisons in Michigan and that would cause them to have to go through there and provide jobs to update the prisons. Let's stop and think that one through. Why not just go ahead and do something with the individuals who are there, leaving them where they are right now, and get into a public works program where at least they could be spending that money on roads and highways.

Let me do this. I have almost given up—in fact, I did give up—trying to put the language in the Senate Armed Services Committee's Defense authorization bill to preclude the President from putting these individuals into the United States. There is only one vehicle left. That is my Senate bill 370, S. 370. It is a one-page bill. I have 22 cosponsors. It merely says we cannot pay to transfer any of these detainees to the United States, and we are not going to be able to try them here. So it is the final answer to this matter.

Madam President, at this time, I ask unanimous consent that S. 370 be brought up for immediate consideration.

The PRESIDING OFFICER. Is there objection?

The Senator from North Dakota. Mr. DORGAN. Madam President, reserving the right to object, and I will object, the Senator from Oklahoma knows that such a unanimous consent cannot be entertained at this point. He

has not consulted with the majority leader who is in charge of scheduling legislative matters to come to the floor of the Senate. So on behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oklahoma.

Mr. INHOFE. Madam President, I would only respond to my very good friend from North Dakota—in fact, we were recently talking about how in agreement we were on some of these things, the potential we have to explore in the United States. I have talked to the leadership to try to bring this up and have not been able to do it. I guess you get to the point where you are frustrated and you know that two-thirds of the American people want to set something in place to keep these terrorists from coming into the United States. All I ask is to get my bill up. I will be trying to do that in the future.

I wish to ask the manager of the current bill on the floor, the minority manager, if he desires to have the floor for the purpose of the consideration of the bill.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, the Senator from Oklahoma had asked to speak in morning business. Senator BENNETT and I have no objection to that. We are waiting for amendments to be offered. If someone were to come and offer an amendment, we would hope the Senator would relinquish the floor.

Mr. INHOFE. I thank the Senator from North Dakota and I assure him that if someone comes down with an amendment, I will cease and yield to them.

CAP AND TRADE

In the meantime, there is another subject I wish to speak about. I have been doing this now for 10 years every week.

It is safe to say that at 3:09 a.m., on June 26, most of America was asleep. While they slept, Democratic leaders in the House were creating a nightmare. In the early morning hours, Speaker PELOSI and her deputies were pushing the largest tax increase in American history.

In the dead of night, with no one watching, they engaged in full-scale arm twisting, back-room dealing, and outright pork-barreling to garner support for a massive bill few, if any, had actually read or understood. You have to keep in mind there are about 400 pages of this bill that weren't printed until 3 o'clock in the morning of the morning the bill was voted on.

When America awoke, they found Democrats talking about green jobs and the new clean green energy economy. They spoke of free markets and innovation and energy independence. All of it sounded so appealing. Yet none of it was true. That is because Waxman-Markey is full of regulations, mandates, bureaucracy, and big government programs. Waxman-Markey is,

to quote JOHN DINGELL, "a tax, and a great big one" on small businesses, families, and consumers.

I don't blame the Democrats for selling cap and trade as something it is not. This is a political imperative for them because the American people now know what cap and trade is and they don't like it.

According to independent political analyst Charlie Cook:

Many Democrats getting back to Washington from Independence Day recess reported getting an earful from their constituents over the 'energy tax hike' . . .

Further, Cook noted—and I am quoting Charlie Cook right now:

The perception is that this is a huge tax increase at a time when people can ill afford one. Hence, Democrats, whether they supported the bill or not, are getting battered, increasing their blood pressure.

Let me say this. This is an issue we are going to be talking about. I have been on the Environment and Public Works Committee since I came to the Senate in 1994. I was the chairman of that committee back when the Kyoto treaty was considered. At that time, as everyone else, I assumed manmade gases, anthropogenic gases, CO₂, methane, were causing global warming. Now people are careful to say climate change and not global warming since we are in about the ninth year of a cooling period. But at that time I assumed it was true. That is all everybody talked about. Until the Wharton School did a study and the question was posed: If the United States were to pass and ratify the Kyoto treaty and live by its emissions requirements, how much would it cost? The range was between \$300 billion and \$330 billion a year. It was at that point that I decided it would be a good time to look at the science behind that and see if, in fact, the science was there.

We are talking about 10 years ago. After looking at it and studying it, we found scientist after scientist who was coming out of the closet and saying this thing was started by the United Nations, the Intergovernmental Panel on Climate Change, and the reports they give are not reports from scientists; they are reports that are from policymakers. Consequently, on my Web site, the Web site inchofe.senate.gov, I have listed over 700 scientists who were on the other side of this issue and now are on the side saying: Wait a minute. This is something that is not real, and it certainly is not worth the largest tax increase in history.

I remember when Vice President Al Gore was in office, the Clinton-Gore administration, and at that time they decided they wanted to come out with a report, in order to sell the idea of ratifying the Kyoto treaty, that they would come up with a report to say how much good could be done, how much the temperature could be lowered over a 50-year period of time if all developed countries, all developed nations ratified and lived by the emis-

sions requirements, how much would it reduce the temperature. The results—and the man's name was Tom Quigley. Tom Quigley was the foremost scientist at that time. He said it would reduce the temperature over a 50-year period by .07 of 1 degree Celsius in 50 years. That is not even measurable.

I wish to inquire if the Senator from Florida wishes to speak as in morning business or on this bill?

Mr. NELSON of Florida. Madam President, morning business.

Mr. INHOFE. Morning business. Well, I am going to be awhile.

Anyway, what I would suggest doing is going back and looking at what has happened since the Kyoto treaty was considered. In 2005, we had the McCain-Lieberman bill. The McCain-Lieberman bill was very similar to the Kyoto treaty. It was cap and trade. It was very similar to the Warner-Lieberman bill and very similar to what we are looking at today, the cap-and-trade bill, which is the Waxman-Markey bill. They are essentially the same thing; that is, cap and trade, a very sophisticated way to try to regulate greenhouse gases or primarily CO₂.

I would suggest that many of the people who were talking about doing this in the very beginning were people who were saying: Well, why don't you pass a tax on CO₂? I would say: If you want to get rid of CO₂ and be honest and straightforward, go ahead and pass a tax and get rid of it. As it turned out, they didn't want to do that because that way people would know how much they are being taxed. If you have a cap and trade, that is government picking winners and losers, and you might be able to make people think they are actually not getting a tax increase.

I wish to quote a few of the people who have weighed in on this issue. If you don't believe what I am saying about cap and trade, listen to some of the past quotes from members of the Obama administration and other proponents of cap and trade. They speak for themselves.

This is what President Obama said prior to the time he was President. He said:

Under my plan of a cap and trade system, electricity prices would necessarily skyrocket . . . Because I'm capping greenhouse gases, coal, power plants, natural gas—you name it—whatever the plants were, whatever the industry was, they would have to retrofit their operations. That will cost money. They will pass that money on to consumers.

JOHN DINGELL:

Nobody in this country realizes that cap and trade is a tax, and it's a great big one.

CHARLIE RANGEL said this not too long ago, speaking on cap and trade:

Whether you call it a tax, everyone agrees that it's going to increase the cost to the consumer.

Then Peter Orszag, former CBO Director and current White House OMB Director, said:

Under a cap and trade program, firms would not ultimately bear most of the costs of the allowances, but instead would pass

them along to their customers in the form of higher prices.

That is the appointed OMB Director, Peter Orszag, saying that.

Continuing his quote:

Such price increases stem from the restriction on emissions and would occur regardless of whether the government sold emission allowances or gave them away. Indeed, the price increases would be essential to the success of a cap and trade program, because they would be the most important mechanism through which businesses and households would be encouraged to make investments and behavioral changes that reduced CO₂ emissions.

He said further:

The government could either raise \$100 by selling allowances and then give that amount in cash to particular businesses and individuals, or it could simply give \$100 worth of allowances to those businesses and individuals, who could immediately and easily transform the allowances into cash through the secondary market.

He said further:

If you didn't auction the [CO₂] permits, it would represent the largest corporate welfare program that has ever been enacted in the history of the United States. All of the evidence is that what would occur is that corporate profits would increase by approximately the value of the permits.

Further, although the direct economic effects of a cap-and-trade program described in the previous section would fall disproportionately on some industries, on some regions of the country, and on low-income households, we had several people testify before the Senate Environment and Public Works Committee—and you saw the most notorious one speak 2 weeks ago, representing the U.S. Black Chamber of Commerce. He was testifying how regressive this cap-and-trade tax would be. If you stop and think about it, sure, it is true, if you raise necessarily, as they have to do, under the House-passed Waxman-Markey cap-and-trade bill—if you raise the cost, it is going to be the cost of energy. So you have poor families on fixed incomes who still have to heat their homes in the winter, so the percentage of their expendible income they use in heating their homes would be far greater. So it is regressive. That is why he got so emotional when he was here talking about what the cost would be to the poor people of America.

Douglas Elmendorf, Director of the CBO, said that some of the effects of a CO₂ cap would be similar to those of raising such taxes. The higher prices caused by the cap would reduce real wages and real returns on capital, which would be like raising marginal tax rates on those sources of income.

All of these people are experts. They work in the government, and they work—most of them—in the Obama administration. They are saying this would be the largest tax increase in history on the American people.

I think that during the recess—if we ever get to it—which is supposed to take place a week from Friday, we will be in a position to talk about three major issues. We have already talked

about efforts to pass some kind of a government-operated health system. I talked about Gitmo, the closing of that, which I think there is no justification for whatsoever. The other thing is that it is the largest tax increase in the history of this country.

In an interview with Michael Jackson, AutoNation CEO, he said:

We need more expensive gasoline to change consumer behavior.

Otherwise, Americans will continue to favor big vehicles no matter what kinds of fuel economy standards the government imposes on automakers. He added that \$4 a gallon “is a good start.”

These are people who do want to increase the cost of fuel for an agenda, which will not help the environment.

Alan Mulally, CEO of Ford Motor Company, said:

Until the consumer is involved, we are not going to make progress in reducing the amount of oil the United States consumes.

On and on, we have people—I plan to spend time on the floor talking about the problems with this because I fear that if you don't do anything, we are going to end up passing the largest tax increase in the history of America.

Even the Secretary of Energy, Steven Chu, said:

Coal is my worst nightmare.

He also said:

Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.

That is the Secretary of Energy for the Obama administration who said that.

He also said:

What the American family does not want is to pay an increasing fraction of their budget, their precious dollars, for energy costs.

He said further:

A cap and trade bill will likely increase the costs of electricity. . . .

This is the Secretary of Energy under President Obama. He said:

These costs will be passed on to the consumers. But the issue is, how does it actually—how do we interact in terms with the rest of the world? If other countries don't impose a cost on carbon, then we would be at a disadvantage. . . . We should look at considering duties that would offset that cost.

Then, of course, the chairman of our committee, Senator BOXER, said:

The biggest priority is softening the blow on our trade-sensitive industries and our consumers. I just want you to know that that's the goal.

I am glad she is saying that is a goal. Senator MCCASKILL weighed in—and I agree with her—saying:

We need to be a leader in the world, but we don't want to be a sucker.

That is a good statement.

And if we go too far with this, all we're going to do is chase more jobs to China and India, where they've been putting up coal-fired plants every 10 minutes.

That was Senator MCCASKILL from Missouri. She is a Democrat. Yet she has very strong feelings that this

would chase off our jobs to foreign countries. She mentioned China and India. They are cranking out two new coal-fired plants every week in China.

Let me do this. Three weeks ago, in our Committee on Environment and Public Works—I want to commend the Director of the Environmental Protection Agency, Lisa Jackson—I asked her this on the record, on TV: If we pass the Waxman-Markey bill as it is written right now, as it came over from the House, and it were signed into law by the President, what would be the result of that in terms of reducing the amount of CO₂ in the atmosphere?

She thought for a minute, and then she said something that surprised me: It wouldn't reduce emissions at all.

In other words, even if we pass this largest tax increase in American history on the people, we are still not going to reduce the amount of CO₂ that goes into the atmosphere. In fact, you could argue—and it has been argued—that it would increase it because it would chase the manufacturing jobs to other countries. They are estimating 9.5 percent of the manufacturing jobs would be sent to China and other countries, where they have no emission restrictions, and that would have a net increase of CO₂.

With that, I see several colleagues coming to the floor. In deference to them, I will yield, but before I yield the floor, let me make one last request. I want to do this. I have been concerned—and I don't know that the Senator from Florida was here when we were talking about Gitmo. I was frustrated when we were unable to get my amendment on the Defense authorization bill that would have the effect of keeping Gitmo open. The only thing left for me is S. 370.

At this time, I ask unanimous consent that the Senate proceed to the consideration of S. 370.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON of Florida. Madam President, on behalf of the majority leader, Senator REID, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Florida is recognized.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that I might speak as in morning business.

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

TOURISM IN FLORIDA

Mr. NELSON of Florida. Madam President, most people know that tourism is certainly a vital part of my State's economy. I know that many of our Florida cities, just like so many cities elsewhere around the country, offer some of the finest and most competitive prices on hotels and conference facilities. So you can imagine that I was absolutely floored when I found out that some Federal agencies are blacklisting Florida cities and other cities in the country for travel

and conferences because they are looked at as a vacation or resort destination.

The hotel industry in Florida is already reeling, it is facing a significant decline because of the recession. Orlando hotels are filling only about 64 percent of their rooms. That is a drop of 8 percent from last year. So you can imagine that I was stunned when I found out that in a Wall Street Journal article last week they had listed Orlando and Las Vegas as cities mentioned in e-mails from the Department of Agriculture and the Department of Justice as no-go-to destinations.

Well, what they ought to be looking at is what is most cost-effective for the government if it is going to an out-of-town location from wherever that particular agency is to have a conference. When you compare, for example—I could be talking about any city in Florida and many other cities in this country, but let me take Orlando, for example. When you compare the cost of a hotel room in Orlando during the season with the cost of a hotel room, let's say, in Washington, DC, during the season, you will find that the Orlando hotels on average are \$100 less per night than the other city in that comparison. Likewise, if you look at the cost of airfare as a destination, you will find that the round-trip airfare to a place such as Orlando is considerably less. But some agencies in the Federal Government, because Orlando is looked upon as a resort or vacation destination, have gotten so sensitized to the fact that we saw the Wall Street bigwigs going haywire, with all their perks and all of their extra emoluments, that they want to avoid the perception of going to a resort destination.

I wish it hadn't come to this, but I have had to draft legislation to make it illegal for the Federal Government agencies to design travel policies that blacklist certain U.S. cities simply because they are looked at as destination cities for a lot of tourism. Talk about a double whammy in tough economic times when we have seen tourism and business travel dropping like a rock.

It is one thing to avoid nonessential trips for the government to save taxpayers money, but it is taking it a little far when it is another thing that if it is legitimate travel and you then avoid certain cities just because they are where they are.

My Senate colleague, Senator MARTINEZ, is helping me with this issue, and working together we ought to be able to put an end to any such practice.

I certainly hope it is not going to take me having to push through this legislation. I am asking the head of the Department of Justice, the Attorney General, and the head of the Department of Agriculture, the Secretary of Agriculture, if they will dig down into the bowels of their organizations and root out this kind of narrow thinking that is going on and expressed in those e-mails as reported by the Wall Street Journal last Wednesday.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

SOTOMAYOR NOMINATION

Mr. SESSIONS. Madam President, tomorrow the Senate Judiciary Committee will vote on the nomination of Judge Sonia Sotomayor to serve as Associate Justice of the U.S. Supreme Court.

I thank the nominee and the members of the committee, including our Democratic colleagues, and Chairman LEAHY, for their efforts throughout the process. I appreciate Judge Sotomayor's kind words to us about how well the hearings went and her expression of gratitude for the kindness and respect she was shown. She is a good person with experience, the kind of experience one desires in a nominee, and her personal story is certainly inspiring.

However, based on her record as a judge and her judicial philosophy, I have concluded that she should not be confirmed to our Nation's highest Court. While differences in style and background are to be welcomed on the Court, no one should sit on the Supreme Court, or any court, who is not committed to setting aside their personal opinions and biases when they render opinions and who is not committed faithfully to following the law, whether they like the law or not. Impartiality is the ideal of American law. Judges take an oath to pursue it, and the American people rightly expect it.

Judge Sotomayor's speeches and extrajudicial writings represent dramatic expressions of an activist view of judging that is contrary to that ideal. Judge Sotomayor made speech after speech, year after year, setting forth a fully formed judicial philosophy that conflicts with the great American tradition of blind justice and fidelity to the law as written.

These speeches also contradict the oath that judges take to "do equal right to the poor and the rich" and to do so "impartially" "without respect to persons." Under the law, under the Constitution and laws of the United States, judges are subordinate to our Constitution and laws. This ideal is a high one indeed, and it requires a firm personal commitment to objective truth and a belief in the meaning of words.

It has been suggested repeatedly that Judge Sotomayor's words and speeches are being taken out of context. I have read her speeches in their entirety. Her words are not taken out of context. In fact, when one reads the entire speeches, the context makes them worse, not better.

My criticism also should not be considered as a personal attack on her as a person because there are a number of intellectuals, judges, and legal writers who believe in just such a new way of judging. It is quite fashionable among some—those who think they are more realistic than naive American citizens, judges, and lawyers who, they believe,

delude themselves when they think a judge will or can find true facts and apply them fairly to the law as written.

Most Americans and most Senators have heard about Judge Sotomayor's speeches, which are clearly outside the mainstream. She has repeatedly said, among other things, that judges must judge when "opinions, sympathies and prejudices are appropriate."

She accepts that who she is will "affect the facts I choose to see as a judge."

It is her belief that "a Wise Latina woman, with the richness of her experiences, would more often than not reach a better conclusion than a white male."

That there is "no neutrality" in judging, just a "series of perspectives." She has also said the appellate courts are where policy is made.

These matters have been discussed in some detail by my colleagues and at the hearing. Her testimony at the hearing was that these speeches do not reflect her philosophy of judging. It is hard for me to accept that her words, expressed over a decade in these speeches, do not reflect what she actually believes. Indeed, it is an odd position in which to find oneself to be at a hearing and say you don't believe what you have been saying over the years.

But Judge Sotomayor has asked, and her supporters have asked, that we look at her judicial record which proves, she and her supporters say, she is unbiased, and shows that she does not allow personal politics and views to influence her decisions. They cite over 3,000 cases she has decided, most without controversy.

They have gone to some length to discuss and defend the process by which she decides cases. Indeed, in her opening statement, Judge Sotomayor explained: "[t]he process of judging is enhanced when the arguments and concerns of the parties to the litigation are understood and acknowledged."

She did follow this style in many of the cases that came before her, going into detail and even being criticized by some in a Washington Post article for "uncommon detail" that risked "overstepping" the bounds of an appellate judge.

But there is more to the story. Most cases before the courts of appeals are fact based and routine and do not raise the kind of serious constitutional issues that the Supreme Court hears and decides on a regular basis.

I have reviewed carefully three cases—two decided in the last year, and one 3 years ago—that are the kinds of cases the Supreme Court deals with regularly. Unfortunately, Judge Sotomayor's handling of these cases was not good. They show, first of all, an apparent lack of recognition of the importance of the issues raised in these three cases.

In each case, the decisions were extremely short and lacking any real legal analysis. These three cases also

reached erroneous conclusions. They ignore the plain words of the Constitution, and they provide a direct look at how the nominee will decide many important cases that will come before the Court, if she is confirmed, in the decades to come.

The case of *Ricci v. DeStefano* came to her three-judge panel of the U.S. Court of Appeals for the Second Circuit as an appeal by 18 firefighters. They had passed a promotion exam, but the exam had been thrown out by the city of New Haven because the city thought not enough of one group passed. The test was thrown out not because it was an unfair test. Indeed, the Supreme Court, when the case got there, found that “there is no genuine dispute that the examinations were job-related and consistent with business necessity.” Instead, the city threw out the test because the city did not like the racial results. Thus, the city discriminated against the firefighters who passed the exam because of their race.

This case is a sensitive case, it is an important case, and we need to analyze it carefully. It is noteworthy because the court failed to adhere to the simple but plain words of the Constitution.

In *Ricci*, Judge Sotomayor’s opinion violated the plain constitutional command that no one shall be denied “the equal protection of the laws” because of their race.

Additionally, the case is subject to criticism because of the manner in which it was handled. I want to talk about that a minute. Judge Sotomayor did not deal with this important constitutional issue—a very important constitutional issue—in a thorough, open, and honest way. Without justification and in violation of the rules of the Second Circuit, Judge Sotomayor and the panel initially dismissed the case by summary order; that is, without any published opinion, without even adopting the trial court’s opinion. No opinion, no explanation.

The effect of this summary order was to deal with the case in a way that would not require the opinion to be published or even circulated among the other judges on the circuit. This was not justifiable. The circuit court rule states that summary orders are only appropriate where a “decision is unanimous and each judge of the panel believes that no jurisprudential purpose would be served by an opinion. . . .”

This is a huge constitutional question in this matter. If it were not, the Supreme Court would never have taken it up, and it almost slipped by. But by chance, other judges on the Second Circuit apparently found out about it through news accounts, apparently, and began to ask about this case that seemed to be of significant import. This resulted in a request by one of the judges—quite unusual when you are dealing with a simple summary order—to rehear the case before all of the circuit judges. It created a notable dustup. The result was a split court with half of the judges asking for a re-

hearing of the case, half against rehearing it, with the deciding vote not to hear the case, not to reconsider any of the precedent that may have existed, being cast by Judge Sotomayor herself.

In effect, this was a vote to avoid the full and complete analysis this case cried out for from the beginning. It was only during this challenge that Judge Sotomayor’s panel agreed to decide the case then by a per curiam opinion, an unsigned opinion, which at least then adopted for the first time the lower court’s opinion which, frankly, I don’t think was a very fine opinion for this kind of important case. But that became the opinion she adopted.

Still, the firefighters didn’t give up hope. They then sought a review by the Supreme Court. Against long odds, the Supreme Court agreed to hear their plea. The Court found the ruling erroneous. They reversed the Sotomayor court’s opinion and rendered a judgment in favor of the firefighters. They held that what the city of New Haven did, which Judge Sotomayor had approved, was simply wrong.

At the Judiciary Committee hearing, firefighters Frank Ricci and Ben Vargas beautifully described what it meant for them to go from a summary dismissal in the Sotomayor court, to a summary judgment victory in the Supreme Court. Five years of personal cost, stress, and strain suffered by the firefighters were vindicated by an important victory for equal justice in the Supreme Court.

But nothing can erase either the flawed result of Judge Sotomayor’s panel decision or her panel’s apparent attempt to sweep the case under the rug.

Secondly, Judge Sotomayor’s treatment of critically important second amendment issues that have come before her is equally troubling, for the same reasons. She simply got the text of the Constitution wrong and did so in such a cursory way that her actions seemed designed to hide the significance of the case and the significance of her ruling.

Last year, in a case of great importance, the Supreme Court held in the *Heller* case that the second amendment, which protects the right of “the people to keep and bear Arms,” provides an individual right—which I think it clearly does—and that, therefore, the Federal city of Washington, DC could not ban its residents from having a handgun in their homes for protection. In a footnote, the Supreme Court left open the question, not raised in the case, of whether the second amendment would bind the States. The question is simple and of fundamental importance to the second amendment: Does the Constitution bar States and cities from denying their residents the right of gun ownership? Pretty big question. Huge question.

On January 28 of this year, in *Maloney v. Cuomo*, Judge Sotomayor issued an opinion on this very issue. And in this opinion, Judge Sotomayor

again failed to follow the text of the Constitution. The Constitution is plain and simple on this issue: “. . . the right of the people to keep and bear Arms, shall not be infringed.” And when you are talking about the people, you are talking about the right not just as it is applied to the Federal Government, I would submit, but also to the States and cities. So the Sotomayor panel looked at this text and decided that a State or local government may infringe, even deny your right.

Some argue that Judge Sotomayor was bound by precedent in her decision and there was old case law that her decision followed. But we have looked at this closely and tried to think it through. I would note that the situation the court found itself in shortly after the well-known, tremendously important *Heller* case had changed, and the Ninth Circuit panel, facing the very same issue, disagreed with Judge Sotomayor. It found that the second amendment does apply to the States. The Seventh Circuit, in a very thorough and carefully written opinion, and at its final conclusion, agreed with Judge Sotomayor’s panel’s decision, but it did so in such a way that it demonstrated its recognition of the importance of this right and the new situation created by the Supreme Court in *Heller*. This recognition was utterly lacking in Judge Sotomayor’s very brief opinion.

While it is argued that Judge Sotomayor relied on precedent, the precedent she cited was from the 1800s and does not use the modern test for incorporation that the Supreme Court employs in deciding whether rights apply to States, something that has been going on for nearly 100 years. Not only that, but even after the watershed decision by the Supreme Court in *Heller*, she held that it was “settled law” that the second amendment did not apply to the States and that the right to keep and bear arms is not a “fundamental right.”

When these points were brought to the Judge’s attention during the confirmation hearings, she declined to explain herself, claiming that she had not recently read the cases on which she so recently relied. This is not the level of analysis that the Judiciary Committee has the right to expect from a nominee to the U.S. Supreme Court.

Make no mistake, the effect of this ruling, if not reversed, if it stands, will be to eviscerate the second amendment by allowing States and cities to ban all guns, as the District of Columbia had basically done before the Supreme Court reversed that in *Heller*. In simple terms, in a case of great constitutional importance, Judge Sotomayor, once again in an unjustifiably brief opinion, measured in mere paragraphs of analysis, gave short shrift to the plain words of the Constitution.

I will say also that after the Supreme Court rendered its ruling in *Heller*, it had a footnote that said since this is a Federal cities case, we don’t decide the

application of the second amendment to the States. But in that footnote, the Court made it quite clear that the prior old cases were decided before it had adopted a different approach to incorporating constitutional rights against the States. It is pretty clear from that they have left this matter open. The judge on the Ninth Circuit found that the question was an open question after *Heller*.

To say it is "settled law" that the second amendment does not apply to the States is not good, in my view. It is not settled law. I would certainly hope, and millions of Americans will be hoping, that the Supreme Court will not rewrite the Constitution; rather, they hope they will declare that the second amendment does apply to the States.

Further, she said it was not a fundamental right. That was not a phrase used by the other two courts which considered this question, and it is gratuitous, in my opinion. The combination of saying it is not a fundamental right, which is important to the ultimate analysis, and her statement that it is "settled law" that the second amendment does not apply to the States indicates a lack of appreciation for the importance of the second amendment right and a hostility toward the second amendment.

And similarly troubling were the judge's equivocations as to whether she would appropriately recuse herself from considering this issue that will surely come before her on the Supreme Court. She declined to commit to recusing herself if the Seventh or Ninth Circuit cases came to the Court, even though those cases raise exactly the same issue as the one she decided against gun rights. I would note also that even the *Heller* case—breath-taking to me—decided by a narrow vote of 5-4 that a right to keep and bear arms provided in the Constitution explicitly applies to bar the city of Washington, DC, from banning all firearms, basically.

In addition to the firefighters case and the second amendment case, both of which involve important issues of constitutional law, Judge Sotomayor handled, in a similarly cursory manner, a very important private property rights case which some have called the most egregious property rights decision in this area since the Supreme Court's infamous decision in the *Kelo* case a few years ago.

Just 3 years ago, after *Kelo* was decided, which caused quite a storm of controversy and a great deal of academic writing, Judge Sotomayor's court issued an opinion in which a private property owner found his property, on which he planned to build a CVS pharmacy, taken by condemnation by the city so that another private developer could build a Walgreen's on the same property. The way this condemnation came about should send chills down the spines of ordinary Americans, because the Walgreen developer, who was pursuing a redevelop-

ment plan supported by the city, told the landowner that he could keep his land and build a CVS and they wouldn't condemn it. All he had to do was fork over \$800,000 or half ownership in his business. I look at that and I can understand why the landowner thought he was being blackmailed. Judge Sotomayor looked at that and called it business as usual—a simple negotiation. But it is no negotiation when one party possesses the power through the city to take your property, whether you agree or not.

In another curiously short 2-page opinion, Judge Sotomayor's court rejected the landowner's claims, holding that the courtroom doors were closed to the landowner because he had brought his claim too late. The logic was that the landowner had to bring his claim to court months before the extortion occurred. The effect was to violate the Constitution. The Constitution plainly states that property "shall not be taken for public use without just compensation." The Supreme Court has been quite clear that means you can't take private property except for public use.

At Judge Sotomayor's hearing, Professor Ilya Somin, who has written extensively on property matters, said this case was the most anti-property rights case since the infamous *Kelo* decision decided by a split Court a few years ago. Again, plain constitutional protections were ignored to the detriment of an individual American citizen who was standing up for his constitutional rights.

So in three cases, contrary to the plain text of the Constitution, Judge Sotomayor has ruled against the individual and in favor of the State in the face of seemingly clear provisions of the Constitution, furthering what can be fairly said to be, in each case, a more liberal agenda in America. A liberal or a conservative political belief, a Republican or Democratic political belief does not disqualify someone from serving on the Supreme Court. What does disqualify is when a judge allows such beliefs or ideology or opinions to impact decisions that they make in cases.

Anyone with more than a casual acquaintance with the law would instantly know that each of these three cases presented issues of great legal importance, and each deserved to be treated with great thoughtfulness. Judge Sotomayor surely understood that fact. Yet in each instance her decisions were unacceptably short. It seemed to me the only consistency in them was that the result favored a more liberal approach to government.

So I have come to announce, regretfully, that I cannot support Judge Sotomayor's elevation to our highest Court. She also now sits in a lifetime appointment on the Nation's second highest court, the Court of Appeals. Her experience, however well rounded, and background, however inspirational, are not enough. What matters is her

record on the bench and her stated judicial philosophy.

I hope I am wrong, but my best judgment, my decision is that a Sotomayor vote on the Court—the Supreme Court—will be another vote for the new kind of ideological judging, not the kind of objectivity and restraint that have served our legal system in our Nation so well. Thus, I am unable to give my consent to this nomination.

Madam President, I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

MORNING BUSINESS

Mr. HARKIN. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

AMERICANS WITH DISABILITIES ACT

Mr. HARKIN. Madam President, yesterday, July 26, marked the 19th anniversary of the signing of the Americans with Disabilities Act by President George Herbert Walker Bush, on July 26, 1990. Passage of that law was a great national achievement. I remember being there. I was the chief sponsor of the bill. I was at the White House when it was signed. It was a beautiful sunny day. More people were on the White House lawn for the signing of that bill than for the signing of any bill in the history of this country. It was huge. It was a wonderful day. It was one of the landmark civil rights bills of our generation—of the 20th century.

Passage of the original Americans with Disabilities Act was a bipartisan event. As the chief sponsor of that bill, I worked very closely with Senator Dole. Of others on the other side of the aisle, two come to mind: Senator Orrin Hatch, who worked very closely with us to get it through, and also Senator Lowell Weicker, of Connecticut. Senator Weicker was the first proponent of the Americans with Disabilities Act, but by the time we were able to get it passed, he was no longer in the Senate. But Senator Weicker did yeoman's work in getting it going and pulling everything together before he left the Senate.

We received invaluable support from President Bush and key members of his administration. I mention, in particular, White House Counsel Boyden Gray, Attorney General Richard Thornburgh, and Transportation Secretary Samuel Skinner.

We look back, after 19 years, and what do we see? We see amazing progress. Thanks to the Americans with Disabilities Act, or the ADA as we call it, streets, buildings, and transportation are more accessible for people with physical impairments. Information is offered in alternative formats so

it is usable by individuals with visual or hearing impairments. Need I mention the closed captioning through which one can be watching the words of my speech on television right now? Closed captioning is now going all over the country, not just for speeches on the Senate or House floor but for television programming and important events and weather announcements. Again, it all started after the passage of the Americans with Disabilities Act.

These changes are all around us—curb cuts, widened doorways, accessible buses, accessible trains. You never could get on an airplane before with a seeing-eye dog. Now when you get on an airplane you see people come on with a seeing-eye dog. They are allowed to do that.

These changes are now so integrated into our daily lives it is sometimes hard to remember what life was like before the ADA. After ADA, employers are required to provide reasonable accommodations so people with disabilities have an equal opportunity in the workplace. There were four goals of the ADA, four stated goals in the law: equality of opportunity, full participation, independent living, and economic self-sufficiency.

Last year, again with broad bipartisan support, we were able to pass the ADA Amendments Act, overturning a series of Supreme Court cases that greatly narrowed the scope of who is protected by the ADA. Beginning in 1999 and going to 2000 and 2001, there were a series of cases, the three most important are what we call the Sutton, the Murphy, and the Kirkingburg cases that came before the Supreme Court. In each of those cases, the Supreme Court did not look at the report language and the findings we had made in the Congress on who is covered by the ADA—the fact that mitigating circumstances were not to be taken into account and that there was not a demanding standard to be met. The Supreme Court turned that on its head. They narrowed who was covered by the ADA. They said that mitigating circumstances had to be taken into account and that there had to be a demanding standard for who was covered.

Again, we worked on a bipartisan, bicameral basis to straighten out these hearings, to overturn the Supreme Court's findings as a matter of fact, and we did. We did it on a bipartisan basis, both the House and the Senate, and President George Herbert Walker Bush's son, then-President George Bush, was able to sign those into law, and I was able to be down at the White House on that. Again, it was a very poignant moment with both President George W. Bush and his father, President George Herbert Walker Bush, being there for the signing of the ADA amendments. Thanks to that legislation of last year, people who were denied coverage under the ADA will now be covered.

As we celebrate the 19th anniversary of this great civil rights law, it is re-

markable to think that many young people with disabilities have grown up taking advantage of these changes, and they have no memory of the way things used to be before the law was passed. I remember recently as I—as we are wont to do as Senators—had my picture taken out here at the front of the Capitol with a group of young people, one of whom was using a wheelchair, I was talking about the upcoming anniversary of the Americans with Disabilities Act. I pointed to the curb cuts so someone could come up and use a wheelchair. I said: You know, those were not there before 1992.

This young person in the wheelchair was astonished to find this out. He assumed they had always been able to move around freely.

As we look around after 19 years, we see a lot of changes—a lot of changes for the good. We see more young people taking advantage of educational opportunities, travel opportunities, families going out to restaurants, traveling with family members who have a disability, schools. We see a lot of wonderful changes that have taken place because of the ADA. But, frankly, there is more work to do. We have not yet reached the promised land of those four goals of the ADA.

At the top of the list is the need to pass the Community Choice Act. This bill has been around a long time. It was first introduced in the 1990s. It was then called MCASSA; that stood for the Medicaid Community Attendance Support Services Act. No one could ever remember what it stood for so we changed the name to the Community Choice Act.

What is this all about? Right now, all over America there are people with disabilities who qualify for Medicaid coverage. They are low income and they have severe disabilities, so they qualify for Medicaid. If they want to get their full coverage for support services, they have to go to a nursing home. If they go to a nursing home, under the law, Medicaid must pay for their support services. If they go to a nursing home, it must pay.

But let's say a person with a disability doesn't want to go to a nursing home, they kind of like to live in their own home, they would like to live with their friends, their family, in the community where they know people. Do they get any support services? None. Medicaid does not have to pay one single dime. If they go to a nursing home, they will pay for it; if you want to stay in your own home and get those support services, Medicaid doesn't have to pay for it. They do not have an equal right to choose where they want to live.

Again, I will say this, some States have applied for waivers, and they have extended these support services to people with disabilities in the community. But it varies from State to State. Some States don't have the waivers, some States do. Even in some States that have waivers—my State of Iowa

has one—the waiting lists are long. It will take you 3 or 4 years to ever get up in the queue to be eligible. So it has been a patchwork of different things around the country.

On top of that, in 1999, 9 years after the passage of the Americans with Disabilities Act, a case came to the Supreme Court. We call it the Olmstead case, *Olmstead v. L.C.* It came out of Georgia. The Supreme Court made an important decision. It said that individuals with disabilities have the right to choose to receive their long-term services and support in the community rather than in an institutional setting. The Supreme Court said they have a right to that.

So this year marks the 19th anniversary of the ADA, it marks the 10th anniversary of that decision of *Olmstead* by the Supreme Court. Yet people with disabilities still have to go to a nursing home to get their long-term services and supports.

Listen to what the Supreme Court said in 1999:

Institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life.

Changing these assumptions is what the ADA is all about. Again, as I said, some States have done it. But it is kind of a patchwork quilt around the country. The Community Choice Act is focused on increasing the availability of attendant services and supports.

We know from studies done—the most important being done by Dr. Mitch LaPlante at the University of California at San Francisco—we know from studies that for a person with a disability to go into a nursing home to receive those long-term services and support costs three times more than what it does in the community. In other words, it would cost three times as much. So for every one person in a nursing home, you can support three people living in their own homes in the community.

You would say: Why aren't we doing that? Because there are about 600,000 people in this country. These are individuals who are on the bottom rung. Let's be frank about it; they are on the bottom rung of the economic ladder. They are poor because they are Medicaid eligible; they have varying degrees of disabilities that, if they do not have their support services, they cannot get out, they cannot go to work. They may be capable of working. After all, we have curb cuts, we have buses that are accessible, we have subways that are accessible, we mandated that employers must make reasonable accommodations—wonderful. But if you can't even get out of your house in the morning, what good does all that do you? So 600,000 people. CBO did a cost analysis and said this would cost about \$50 billion over 10 years—\$50 billion over 10 years.

That is a lot of money. But, keep in mind, the health care bill we are talking about passing, recent estimates by

CBO put it at \$1 trillion over 10 years—\$1 trillion over 10 years. So \$50 billion, that is about 5 percent. Is that too much to ask to help people on the lowest rung of the economic ladder in our country, to help them take advantage of what is their civil right, what the Supreme Court said they have a right to: a right to live independently, a right to live in their own home, to get those services?

As we all know, civil rights such as this are not self-executing. They require some support from the Congress. Frankly, I must tell you I disagree with the estimate of the CBO because here is what they do not take into account. They don't take into account that many of these people with disabilities who could live in the community if they had these services and support can now get out the door in the morning, get to work, make a living, and pay taxes.

I think of my nephew Kelly. My nephew Kelly was injured in the military. He was serving on an aircraft carrier and got sucked down a jet engine. He lived, but he is a severe paraplegic for the rest of his life.

My nephew Kelly came back out of the military. He had that terrible accident. He was 19 years old, a big strapping kid. He went to school, went to college. Then he lived by himself—he still does. He lives in his own home. He has a van he drives with a lift on it.

He gets up in the morning, goes to work, comes back. How is he able to do this? He has support services. He has someone who comes in his house in the morning, gets him ready; someone who comes in the house at night, gets him ready for bed. He does his own shopping and cooking, but he has to have a nurse there, someone to help him get going. If he did not have that, he would not be able to go to work. But he has that. He is able to go to work, and he is a tax-paying citizen of this country.

There are hundreds of thousands of Kellys around this country who, if they had that support mechanism, could go to work. So when they say it costs \$50 billion, I say, well, you are not taking that into account. They are not taking that into account. So as we enter the critical stage in hammering out comprehensive health care reform, we must not miss this opportunity to extend the availability of attendant support and services which so many have been fighting for for so many years.

Every individual with a significant disability deserves the choice about where to live and with whom to live and where to receive his or her essential services. That has a lot to do with employment, and as I look back over 19 years of the ADA, there is one thing that is still lacking: that is employment of people with disabilities.

Recent surveys show 63 percent of people with disabilities are unemployed. They want to work. They have abilities, but they are unemployed. A lot of this is because there are no support services. Much of this has to do

with the fact that some employers are not providing reasonable accommodations. Some of it has to do with the fact that there is not an affirmative action program to hire people with disabilities. Some 21 million people with disabilities are not working, are not employed. So we need to do a better job with providing these people with disabilities the opportunity for economic self-sufficiency as we promised in the ADA.

On a closing note, on Friday of last week, President Obama announced the President of the United States will sign the U.N. Convention on the Rights of Persons with Disabilities, an international treaty that identifies the rights of persons living with disabilities and obligates countries to maintain those rights. The convention, after it will be signed, I understand, this week by our Ambassador to the U.N., will go through a process and then it will be referred to the Senate for ratification.

Well, we should take pride in the fact the United States has always been a leader in ensuring the rights of individuals with disabilities. We have made great progress toward the goal of equal opportunity, full participation, independent living, and economic self-sufficiency.

By becoming a party to the convention, the United States will continue its leadership role. So on this 19th anniversary of the ADA, I thank our President, President Barack Obama. I thank him for the statement he made last Friday that he was going to sign this week and for maintaining the leadership role of the United States in ensuring the rights of people with disabilities.

I only hope the convention will get through the process rapidly so we can get it to the Senate, and I hope the Senate can ratify it as soon as possible.

Lastly, on a more poignant note, I want to pause on this anniversary to remember people who played such a vital role in passing the ADA. Some are no longer with us, such as Justin Dart, who was the person who pulled it through. Justin Dart. We are fortunate that his wife Yoshiko continues to carry on this legacy day after day and week after week and year after year.

We remember Ed Roberts, the father of the independent living movement, whose work and vision continues to inspire powerfully. He is also gone.

Others who are still with us: Pat Wright, my staff director; Bobby Silverstein, who worked so hard and pulled this through. Of course, the one person, when the going got tough, when we did not know if we could get everything pulled together, who worked his magic to bring people on both sides of the aisle together—and herein I speak of Senator TED KENNEDY, the chairman of the committee, the HELP Committee, at that time, and I was chairman of the Disability Policy Subcommittee. But that was under the tutelage of Senator KENNEDY. He was the

chairman of the HELP Committee at that time. It was because of his great work we were able to pull people together to get the great compromise to pass the ADA.

I would mention one other person I think might be somewhat responsible who is no longer with us. That is my late brother Frank. I have spoken of him many times as my inspiration for working on disability issues.

Frank became deaf at a young age. He was taken from our home and sent across the State to the Iowa School for the Deaf. At the time, many people called it the State School for the Deaf and Dumb. That is how they referred to people who could not hear, as deaf and dumb.

I remember my brother said to me: I may be deaf, but I am not dumb.

He also said to me one time: The only thing that deaf people cannot do is hear. He fought, not only in school, but after school to be independent and to make his own way in life, and he was able to do that.

I saw how many times he was discriminated against, whether it was getting a driver's license, so many things he was told he couldn't do because he was deaf. They were always trying to hold him back. But he was always pushing, and he was able to carve out a life of independence and dignity for himself. Why did he have to fight so hard for all of this? Why did he have to struggle so much just to get people to accept him for what he was and who he was and not just to look at the fact that he was a deaf man, but that he was a person of great capabilities.

Great ethics. Great work. Very hard. But why did he have to struggle? Then I started looking around and saw all of those people with disabilities in America who just had to overcome almost insurmountable obstacles just to be a contributing member of our society, not to get welfare. My brother was never on welfare in his entire life. He always worked hard. They just want to work and contribute and to be a part of our society. Why did it require extraordinary efforts to do things we just take for granted in our country?

So he was sort of my inspiration and continues to be today. So, yes, we have had our share of frustrations. We have not reached the promised land. We have a 60-percent or more rate of unemployment, and people with disabilities have to go to a nursing home to get support rather than living in the community.

So we do have a ways to go. We have come a long ways, but we do have a ways to go. So we can celebrate this great law, this great civil rights bill, the Americans with Disabilities Act. But now we also have to say we have to take these next steps.

On July 26, 1990, when he signed the ADA into law, President George Bush spoke with great eloquence. I will never forget his final words before taking up his pen. He said: "Let the shameful wall of exclusion finally come tumbling down."

Well, today that wall is indeed falling. We have to continue the progress. We have to go forward and not backward. We must enact the Community Choice Act so that people with disabilities can finally have not only independence but they can have full participation and they can have economic self-sufficiency.

Their goal, their home, not the nursing home, has been their cry for many years. We ought to hear that, heed it, and make sure we do not pass a health reform bill unless we have something in it to address this one fundamental flaw in our society that wreaks havoc against people with disabilities in our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Madam President, before Senator HARKIN leaves the floor, I want to express that there is no one in this Chamber, there is no one down the aisle in the House of Representatives, there is no one in this city who has worked harder on issues advocating for those with disabilities than TOM HARKIN.

I heard him make that moving and beautiful tribute to his brother. There is a building on the Galludet campus named after Senator HARKIN's brother.

Galludet is the university for the deaf in Washington, DC. I am fortunate to sit on the board of that university, recommended by Senator HARKIN, for whom I will always be grateful, that institution that has lifted up so many people, and his brother was a big part of that. Senator HARKIN is a big part of the success of that institution and advocating for the rights of the disabled.

UNITED STATES-CHINA STRATEGIC AND
ECONOMIC DIALOGUE, SED

I rise now to speak about the United States-China Strategic and Economic Dialogue, the so-called SED, which began early today in Washington. Dozens of Chinese officials descended on our city over the weekend. They are now negotiating, discussing, and engaging in strategic and economic dialogue with comparable officials in our Federal Government.

Secretary of State Clinton and Treasury Secretary Geithner are leading these talks for the Obama administration. The challenges they face are daunting. The issues that frame our relationship with China, which range from global security and fundamental human rights to trade and investment to energy and global warming policy, are critical to the future of our Nation and to the world.

I think we all agree a strong middle class makes a strong economy. We also agree the middle class, to put it mildly, is not faring well in this financial crisis. The official unemployment rate of the United States is 9.5 percent. My State is 11.1 percent. It has climbed 2 percentage points in the past 5 months.

China is one enormous export platform, and the United States, its biggest customer, has stopped buying. Morgan

Stanley economists report that exports account for 47 percent of the economics of China and other East Asian nations, while in the United States consumption accounts for 70 percent of our GDP. As revenues flow out of the United States and into China, more than \$200 billion every single year, China becomes our biggest lender. This unbalanced economic relationship breeds risk. It is rooted in our Nation's passive trade relations with China.

My State of Ohio is one of the great manufacturing States in this country, as it has been for about a century. We make solar panels and wind turbines, we make paper and steel and aluminum and glass and cars and tires and polymers and more. Look around today. I am sure you will find something you use that is made in Ohio. But let's look at a typical Ohio manufacturer and compare that to a Chinese manufacturer.

The Ohio manufacturer abides by a minimum wage to ensure workers are paid for and not robbed of talents. An Ohio manufacturer abides by clean air and workplace and product safety standards, helping to keep his or her workers healthy and productive and to keep customers safe. The Chinese manufacturer has no minimum wage to maintain. The Chinese manufacturer is allowed to pollute the environment, is allowed to force workers to use dangerous and faulty machinery.

Food and product safety are not a must for the Chinese manufacturers; lax enforcement makes it look more like an option. The Ohio manufacturer pays taxes, pays health benefits, pays Social Security.

The Ohio manufacturer typically allows family leave and gives WARN notices when there is going to be a plant closing. The Chinese manufacturer allows child labor. The Ohio manufacturer receives no government subsidy. The Chinese manufacturer receives subsidies often for the development of new technologies or for export subsidies.

The Chinese manufacturer benefits from China's manipulation of its currency, which gives, many economists think, a 40-percent cost advantage—a 40-percent cost advantage.

In addition to all of the other cost advantages of product safety, worker safety, minimum wage, paying into Social Security, Medicare, all of that, the Ohio manufacturer is investing in clean energy. The Ohio manufacturer is investing in new technologies and efficiencies to create more sustainable production practices. The Ohio manufacturers are part of the movement to make our country more energy efficient.

They will do their part to reduce carbon emissions but not at the expense of jobs if China and other countries do not take comparable action. Yet when the Ohio manufacturer petitions for relief and says it can compete with anyone, but only when it is a level playing field, or that it can emit less carbon

but the Chinese competitors should bear similar costs on similar timelines, what does the Chinese Government say?

They call it protectionism.

Amazingly, that Chinese Government, when it labels behavior protectionism, has allies in the United States, all kinds of allies right here in Washington, DC. It had allies certainly in the Bush White House. It has allies among newspaper publishers certainly in this city. It has allies among Ivy League economists and among too many Members of the House of Representatives and the Senate. So when China labels anything we do to protect our workers, our environment, our families, our security, the chorus of protectionism from our own Nation's media and from many Ivy League economists and many political leaders sounds almost as loud as Chinese accusations of protectionism.

Earlier this year, Energy Secretary Chu noted that unless other countries also bear comparable costs for carbon emissions, the United States will be at a disadvantage. In other words, if we deal with our carbon emissions by stronger environmental laws on American manufacturing, and China doesn't, Secretary Chu understands that will encourage more industry to move from the United States, where everything produced contains an environmental cost, to China where many things produced contain little environmental cost. The response to Secretary Chu from the Chinese official? He called it an excuse to impose trade restrictions and practice protectionism. Chinese officials are quick to call the United States protectionist, despite all the protections it affords its manufacturers. These labels, launched when Congress considers import safety legislation—remember the toys at Halloween and Christmas and Easter that came from China that had lead-based paint on them at levels far in excess of what we consider safe, remember the drug ingredients put into prescription drugs that killed many people in Toledo with the drug Heparin and all over the country, those ingredients came from China—or the “Buy American” provisions are used by trading partners to influence our debates about public policy. Of course, Chinese officials are all too often joined, whenever we in this body insist on food safety, pharmaceutical safety, worker safety, environmental protections, by American CEOs, Ivy League economists, newspaper publishers, and too many people who sit in this Chamber.

Meanwhile, the United States has the world's most open economy. That is why I believe today's strategic economic dialog, the SED, is so important. China's industrial policy is based on unfair trade practices. It involves direct subsidies, indirect subsidies such as currency manipulation, and copyright piracy and hidden subsidies such as lax standards and sweatshop labor. In total, it results in the loss of millions of American jobs.

The Economic Policy Institute estimates that 2.3 million jobs were lost between 2001 and 2007 due to the trade deficit with China. Those were during our good economic times. During that economic time, the first 7 years of the Bush administration, not only did we lose 2.3 million jobs—many of them because of Chinese trade policy—in addition to that, 40,000 manufacturing concerns in our country shut down. China's policies are depressing wages and income levels worldwide, while its exploitation of environmental, health, and safety standards is killing Chinese workers and citizens and adding to our climate change challenges. The health of our economy, the strength of our middle class, depend on how Congress and the Obama administration engage with China on these issues.

I am hopeful the Strategic and Economic Dialogue begins a new chapter between two great nations, China and the United States. But Congress cannot sit idly by as we debate climate change or trade or manufacturing or any other policies that affect the middle class.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

TAX INCREASES ON HIGHER INCOME AMERICANS

Mr. HATCH. Mr. President, I rise today to express my alarm about the possibility that this Congress will raise tax rates on higher income Americans in order to partially finance the cost of health care reform. Even though some of our colleagues on the other side of the aisle may not currently see the serious damage to our economy and our society that such a proposal could create, I want to spend a few minutes explaining why such a course of action would be a grave mistake.

We began hearing talk of raising taxes on the so-called wealthy last year during the presidential campaign. Then-candidate Obama made a number of promises regarding taxes. Perhaps most prominent among these were the following three pledges: He would cut taxes for small businesses and companies that create jobs in America; he would cut taxes for middle-class families, and no family making less than \$250,000 per year will see their taxes increase; and families making more than \$250,000 will pay either the same or lower tax rates than they paid in the 1990s.

I have been around this town for a long time, and I have seen a lot of presidential candidates make lots of promises. It is easy to greet such pledges with a degree of skepticism. However, I have seldom, if ever, seen promises regarding tax cuts and tax increases made more prominently, more clearly, or more often than those made by the President when he was on the campaign trail last year.

And yet, it was only a matter of a few weeks before the promise to keep tax rates below the 1990s level for high-

er income families was broken. In his budget outline for fiscal year 2010, which was released on February 26, 2009, the President included a proposal to partially pay for health care reform. This proposal would lower the value of itemized deductions for families with incomes over \$250,000.

When this proposal is combined with the President's promise to allow the 2001 tax cuts to expire for families making over \$250,000, we are looking at effective tax rates well above those paid by higher income families in the 1990s. Thus, the President broke his pledge within weeks of Inauguration Day.

While it is true that none of the health care reform proposals introduced so far in Congress includes the limitation on itemized deductions, this presidentially preferred offset proposal has been discussed in the Senate as a possible way to finance health care reform.

More importantly, the health care reform package that has been reported by two House committees and is working its way through a third includes an offset that is even more blatantly in violation of the President's pledge. This is a surtax on the adjusted gross income of single taxpayers earning more than \$280,000 and of families earning more than \$350,000.

This surtax starts at a rate of 1 percent at the lowest thresholds, but it is set at 5.4 percent for income in excess of \$1 million. This new surtax has been projected by the Joint Committee on Taxation to raise \$544 billion over 10 years. I know we are getting far too accustomed to seeing scores in the hundreds of billions of dollars, but let me say that number again: \$544 billion. That is over half a trillion, with a T. For those who might be watching or listening at home, that is 544 followed by nine zeroes.

Whether at the 1 percent level, at the 5.4 percent level, or somewhere in between, this surtax also starkly violates the President's pledge to not increase tax rates above their 1990s levels. In fact, when combined with the phase-out of itemized deductions, which the President has also proposed bringing back from the grave, this surtax could increase the top marginal income tax rate to more than 46 percent. When State taxes are added, the top rate in many States would likely exceed 50 percent.

Some may say that this surtax is not the President's idea, and that it therefore should not be blamed on him. Well, it may have not been his idea, but I have not seen the White House repudiate it in any way. All indications from 1600 Pennsylvania Avenue are that the President supports this huge new tax increase.

Do I bring this matter to the attention of my colleagues today merely because I am irritated to see the President violating one of his campaign promises? No. As I mentioned earlier, I have seen a lot of campaign promises

made and a lot of campaign promises broken.

Perhaps it is because I am worried about the estimated 12,900 Utah tax filers or the just over 2 million Americans who would be affected by this surtax. After all, some are saying, this is just over 1 percent of taxpayers, and after all, they are rich, and they can afford it, right?

Well, yes, I am concerned about them. A tax on adjusted gross income is unfair, and it is discriminatory. If we wish to raise tax rates we should do it in a straightforward and transparent way. A tax based on gross income provides for few or no deductions, and it jolts our long-established differential between ordinary income and income from capital. It is a raw revenue grab justified on the socialistic idea that these people earn more than the rest of us so they should be forced to share it with those less fortunate than they are.

But this also is not my primary reason for bringing up this matter today.

I bring this to the attention of the Senate for two reasons. First, high tax rates on upper-income earners, particularly when combined with the ever-increasing progressiveness of our tax system, are destructive to the economy and to our society.

Second, a good share of these higher income taxes will be paid by small businesses which will harm job creation. Today I want to talk about the problems of too much tax progressivity. In a subsequent floor speech, I will address the issue of how this tax will hurt small businesses and job creation.

We often hear from those on the left that our tax system is not progressive enough. Essentially, proponents of a more progressive tax system believe that the Internal Revenue Code taxes lower income taxpayers too much and higher income taxpayers too lightly. In essence, they believe the so-called wealthy among us are not paying their fair share of taxes.

However, the facts simply do not support this viewpoint. According to data released by the IRS for 2006, which is the latest year available, the highest-earning one percent of income earners received 22 percent of all the income in America. This sounds like a great deal of income concentrated into the hands of a few, and it is.

One would think and hope that an equitable tax system would require this top one percent of income earners, who are earning 22 percent of all income, to pay at least 22 percent of all the income taxes. If they paid exactly this amount, ours would be considered a proportional tax system. If they paid less, we would call it a regressive tax system. If the top earners paid more than the proportion that they earned, the tax system would be considered progressive.

I do not know anyone who truly believes that a completely regressive tax system is fair. No one should be asked

to bear a higher portion of the tax burden than what he or she receives in income. However, I know that certain taxes are regressive, even if our overall system is not.

In contrast, many Americans think the only fair tax system is a progressive one. The more you make, the more you ought to pay. I can understand this and I do not necessarily disagree with it, within reason.

On the other hand, I believe that a strong case can be made that a proportional tax system is the fairest tax system. Many of my fellow Utahns agree with this idea. I have received thousands of letters over the years asking why we should not have a flat tax that requires citizens to pay a fixed proportion of their income in taxes. Conceptually, I think they are correct.

Even though many Americans like a progressive tax system, I think they might be shocked to see just how progressive ours has become. I mentioned before that the top one percent of income earners received 22 percent of all income in 2006. However, this group paid 40 percent of all income taxes paid in America. Almost twice the proportion paid as earned. This is not just progressivity. This is progressivity on steroids. And it is harmful and unfair.

And, we are not just looking at the top one percent to see this problem. The top 10 percent of income earners received 47 percent of all income, but they paid 71 percent of all tax. Again, this is way beyond what I believe fair-minded people would call a reasonable amount of progressivity.

However, this is not the worst of it. In fact, this is only half of what I will call the equitable taxation equation. This is because so far, we have only talked about the half of the equation that raises money from taxpayers. What about the other half of the equation, where the money is spent?

In a 2007 study, economists at the Tax Foundation looked at both the tax side of the equation and the spending side. Their findings are very interesting. Using total Federal taxes rather than just income taxes, the study found that the top 20 percent of income earning households paid on average \$57,512 in Federal taxes.

However, the average Federal Government spending received by these households was just \$18,573.

The lowest 20 percent of income-earning households, on the other hand, paid an average of just \$1,684 in Federal taxes, but received an amazing \$24,860 average per household in Federal Government spending.

Another way of saying this is that the top earning 20 percent of households received 32 cents in Federal Government spending for every dollar in Federal taxes paid, while the lowest earning 20 percent of households received \$14.76 in Federal Government spending for every dollar they paid in Federal taxes.

Plain and simple, this means the top-earning fifth of Americans get back

only a third of what they pay in taxes while the bottom-earning fifth are receiving a bounty of nearly 15 times what they pay. This is redistributionism gone wild.

And this study takes into account all Federal taxes, not just income taxes. If the study included only the Federal income tax, the amounts would be skewed even farther because the income tax is much more progressive than are other Federal taxes.

Moreover, this study used tax-and-spending numbers from 2004. Our tax system has become more progressive since then. It is very apparent to me that our tax system is very progressive already. And when it is viewed in this larger context, along with the Federal spending, it is nothing short of ultra progressive.

So the question I have for my friends and colleagues on the other side of the aisle is this: just how progressive is progressive enough? I realize that some will not be satisfied until we reach a total redistribution where there is no more rich or poor among us. And while that idea might sound really fine, it would create total havoc to our government and our society, and I think we all know it.

How far can we take this idea of progressivity before the system collapses of its own weight? Our tax system, and indeed our entire system of government, depends on the voluntary cooperation of its citizens. An underlying if unstated foundation of the American government is the idea that the great majority of us will work hard, take care of our families, willingly if grudgingly pay our taxes, cooperate with the law, and do our best to make it all work.

What happens to our society if those who are in the top 25 percent, who are now paying 86 percent of the general cost of government, see that their burden is about to grow ever bigger, and that they soon may be part of only 10 or 15 percent who are carrying all the rest of us?

Where does incentive go as we approach this situation? Is there a tipping point where hard-working and successful Americans will say: Enough is enough. I am no longer willing to be a chump and carry the load for everyone else. Why don't I also stop pulling and get in the wagon and get the free ride?

We have already seen a strong movement toward removing more and more lower-earning Americans from the income tax rolls. The Making Work Pay credit and other refundable tax credits give cash back where no taxes have been paid. They serve as a negative income tax.

According to the Tax Policy Center, for calendar year 2009, the number of Americans who are not subject to the Federal income tax exceeds 43 percent. This number will likely grow significantly as a result of the enactment of the Making Work Pay credit earlier this year. If the President and his fol-

lowers in the Congress have their way, there will be millions more who will be allowed to stop pulling and get on the wagon to be carried by the few who work.

This means that the number of American households that contribute nothing to our general cost of government, to our defense, and to the thousands of programs that are funded by the income tax is approaching 50 percent. Asking fewer and fewer to carry more and more of the load is dangerous in a free society. We are approaching that point where the majority can simply vote for higher taxes to fund higher spending with no personal cost to them. When that happens, our representative Republic is in grave danger.

There are lots of good economic reasons why we have to be careful about raising taxes too high on those who are bearing the burden of the cost of government. I will talk about those at another time. The one I am talking about today is a simple one, but it is the scariest to me.

The simple fact is that there is a limit on how much we can ask successful people to contribute to the cost of general government, just as there is a limit to how few people will be willing to pull a wagon that gets heavier each time we let someone leave the ropes and climb on board for the free ride.

Ideally, we should all have to carry our own weight. While this may not be possible or practical, we surely cannot expect a willing but diminishing minority to continue to pull a heavier and heavier wagon up a steeper and steeper hill without a breakdown. I urge my colleagues to think carefully before going along with an idea that loads more of a tax burden on the few who seem to be able to afford it. If we go too far down this path, we are all going to end up in a ditch.

Madam President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

HEALTH CARE REFORM

Mr. WHITEHOUSE. Madam President, over the last several months I had the exceptional honor of serving as a temporary member of our HELP Committee—Health, Education, Labor, and Pensions—where I joined a truly remarkable group of Senators as we wrote and fought through and refined and ultimately passed our part of legislation that will begin to fundamentally

transform our broken health care system. During that period, Senator KENNEDY could not be with us, but we certainly felt his spirit and his presence and the tradition of service to this issue that he has embodied through that time. I think he would be proud of the Affordable Health Choices Act we brought out. I certainly am.

This bill, in combination with the work now being done in the Finance Committee, will guarantee quality, affordable health coverage for all Americans. It will protect Americans against back-breaking medical costs. It will expand access to vital preventive services. It will fight fraud and abuse in public and private health insurance plans. It will help retirees with the high cost of coverage. It will improve the quality of care through fundamental delivery system reforms. It will build a 21st century health care workforce. It will provide a new voluntary insurance plan, a different choice for long-term care. Most importantly, it will bend—maybe even break—the cost curve. In short, we stand at the dawn of the most significant improvement of our health care system that our country has ever seen. My only regret is how remarkably, staggeringly, embarrassingly late we are to this task. We often talk about the health care reform efforts of 1993 and 1994 and how startling it is that it has taken us 15 years to return to such a paramount issue for our people. But as we all know, the debate over reforming health care goes back decades and decades.

Let's take a quick trip back in time. From a 1992 New York Times article: "Health Care Costs Dampen Hiring." This at a time when our national health care costs were \$850 billion a year. Now they are \$2.3 trillion a year; then, \$850 billion a year.

This could be the first recovery crippled by medical costs. Employee benefits—health insurance in particular—have become so explosive that manufacturers are increasingly coping with weak demand by cutting payrolls, not overtime. . . . Health care costs, increasing at more than twice the rate of wages, have made benefits so expensive it would be surprising if companies were not responding. As they find other ways to avoid paying benefits—the growing use of contract workers, for example—they often say instead that they are merely giving employees some flexibility.

That was 1992. We could have that same discussion today, only we would have to multiply the number by three.

Here we are back in 1988 when the New York Times reported: "Soaring Health Care Costs." At this time, instead of \$2.3 trillion a year in health care costs, we were spending \$500 billion.

The article says:

Health care amounts to 11.1 percent of gross national product in the United States,—

Now, of course, we are over 18 percent.

—a bigger share than in any other advanced country.

That didn't change.

In 1987, Americans spent \$500 billion on health care, 9.8 percent more than the year before.

Those trends have continued.

This year, spending on health care is expected to rise by 8.2 percent, more than double the inflation rate. And despite many efforts to slow health care spending, it is expected to grow by another 9.1 percent in 1989. . . . The average jump in premiums could hit 30 percent in 1989. But at the same time, we're getting less for it.

Further back to 1979, 30 years ago when our annual expenditure was less than one-tenth of today. Today, \$2.3 trillion; then, \$200 billion. The article says:

HEW Secretary Patricia Roberts Harris said the quality of American health care does not justify its price tag of more than \$200 billion a year. Harris said health costs represent nearly 10 percent of the gross national product, the total value of goods and services produced in this country each year. The federal share of health costs will exceed \$50 billion next year, including \$30 billion for Medicare and \$12 billion for Medicaid, and will claim 12 percent of the Federal budget.

But for the passage of 30 years and for all of those numbers getting bigger, you could say the same today.

Finally, last, but not least, from a 1955 New York Times article. This article predates me. I was born in October of that year. Here is what it says:

As it does each year without fail, the government declared again this week that it is time to do something about the rising cost of medical care.

Let me repeat that:

As it does each year without fail, the government declared again this week that it is time to do something about the rising cost of medical care. Last year, the Nation's medical bill ran over \$10 billion.

It is now 25 times as much, and you could say the same thing.

It was an increase of \$3 billion since 1948. Of this sum, only about 25 percent was covered by some form of prepaid health insurance. In human terms, this meant that the American had to scrap his budget, dig into savings or go into debt, to pay some \$7.5 billion for doctors, hospitals, dentists, nurses, and the myriad physical accessories of medical care.

These words, from February of 1955, when one-fifth of the Members of this body were not yet born, could not be truer today.

In human terms, the American had to scrap his budget, dig into savings or go into debt to pay for doctors, hospitals, dentists, nurses, and the myriad physical accessories of medical care.

How little we have changed.

Fifty-four years later, astoundingly, despite all of this time and all of this trouble and all of this tragedy, this is still a game to some people, a political game. Fifty-four years later, health reform still faces opponents who will do whatever they can to delay or derail the reform process, turning what is our most desperate domestic political crisis into political theater.

Last Friday, one of our colleagues on the Republican side told a group of conservative activists:

If we're able to stop Obama on this, it will be his Waterloo. It will break him.

Think about that for a minute. One hundred thousand Americans die every year because of avoidable medical errors, and the response from the other side is "let's find a way to break the President of the United States." More families now go into bankruptcy because of health care costs than for any other reason; families across this country who lose everything. And the response: "Let's find a way to break the President of the United States." We watched Detroit crumbling under the weight of its health care costs, and General Motors, one of our fabled companies, fail. And what is the response? "Let's not fix it. Let's find a way to break the President of the United States over this."

We have a health care costs tsunami bearing down on us, one that truly could break the fiscal back of this country, but do they want to deal with it? No. They want to play politics to break the President of the United States. We have an insurance industry that turns on you when you have the nerve to get sick, denying you care and denying you coverage. They call it medical loss when they have to pay for you. Across this country people suffer. When they are sick, when they are down, when they are hurt, when they are at their weakest, their own insurers turn on them and try to interfere with their health care and try to deny them payment and coverage. What is the response from the other side? "Let's try to find a way to break President Obama."

This is not President Obama's Waterloo. This is not one man's battle. This is a war in which millions and millions of Americans are casualties every day: the child whose insurance policy carves out from her coverage the asthma care she desperately needs; the doctor whose office spends more time fighting the insurer over claims and authorizations than delivering health care; the small business owner whose employees are like family for her and who can no longer afford to cover their health care; the elderly retiree who falls into the Medicare prescription drug doughnut hole; the diabetic who cannot obtain a policy at all from anyone because he or she has a preexisting condition.

This should not be a political battle of right versus left. It is truly a battle of right versus wrong. I have come to the floor countless times now to share Rhode Islanders' personal and family tragedies, their sorrows, and their frustrations with our present health care system. My constituents share their stories with me at community dinners across Rhode Island, in our senior centers, at coffees, and as I walk the main streets of towns across our State.

Earlier this year, I launched a health care storyboard on my Web site where Rhode Islanders can share their experiences and ideas for health care reform. In just a few short months, literally hundreds of Rhode Islanders have written to me to share their ideas and experiences. Those stories are fraught with

anguish, pain, frustration and, too often, tragedy. They break your heart. They break your heart to read. Rhode Island is a small State. If we have it happening hundreds and hundreds of times, in the Presiding Officer's State of New Hampshire and across this country, it has to be happening thousands of times, tens of thousands of times, hundreds of thousands of times every day.

With all that suffering going on, with all the risks to our country of the perils of the costs coming at us from our health care system, if the other side can't care about the merits and substance of health care reform—if you cannot care about the merits and substance of health care reform, if, for you, it is just political theater, if all it is, is a way to “break” the President of the United States of America, in a time of domestic and international crisis, if your goal is to break the President rather than do something about health care, if that is how little you care about health care, then you can't care about the merits or substance of anything else because there is nothing domestically that is as important to our country as health care reform. If you cannot care about that and deal with us on the merits on that, then you can't care about anything.

What is really frustrating about this is for these Rhode Islanders, tormented by our health care system, and for their millions of fellow Americans across the country, who have those same experiences, there is a better way. We are working toward it. We can find it, and we can make it happen.

We have to do better, we can do better, and we will do better with this legislation than 47 million uninsured and millions more teetering on the brink, one paycheck away from losing their insurance, one illness away from losing their insurance. We can and we have to and we will do better under this legislation than 100,000 Americans dying every year because of avoidable medical errors and because, among other reasons, we have the worst health care infrastructure, information infrastructure, in health care than in any other American industry except the mining industry. We can make this better. We can do better and we have to do better and we will do better than health care outcomes for Americans that are at the bottom of all of our industrialized competitors—at the bottom; with all of our capabilities as Americans, our ingenuity and our entrepreneurship, we are at the bottom of developed nations in health care outcomes for our people, and we pay twice as much as they do to get there.

America can do better than this. Beginning with the work of the HELP Committee, we are on our way. Let's not squander the opportunity and the responsibility this day presents. Let's not be distracted by calls for delay or appeals to the pettiest political instincts this Chamber could express.

As I see it, we are about 55 years late already. We don't need further delay;

we need to get this done. Year after year, Americans have had the same complaints about their health care system. We have it within our power, under the leadership of this President, to make it happen, and we will.

I thank the Chair and yield the floor.

ARTS IN CRISIS PROGRAM

Mr. REID. Madam President, today I stand to recognize the outstanding efforts of the Kennedy Center in addressing the crisis facing our art organizations across this country. Under the leadership of their talented president, Michael Kaiser, the Kennedy Center has established a unique outreach program that will help cultural organizations throughout Nevada and our Nation weather the economic downturn.

Every Member of this body knows of the economic hardship facing American families and businesses. The art community is not immune. In Nevada, the Las Vegas Art Museum recently closed its doors due to financial troubles when donations dried up. The museum had been operating since 1974 and was a staple for art enthusiasts in the region. Unless help is provided to our cultural organizations, I am afraid this scene will continue to be rehashed throughout the country.

Considered the “turnaround specialist” in his industry, Mr. Kaiser knows a thing or two about struggling arts organizations. When the Louisiana Philharmonic Orchestra was struggling after Hurricane Katrina, Mr. Kaiser helped keep their organization performing. When the Dance Theater of Harlem was struggling, Mr. Kaiser helped reopen its school. When the New York City Opera needed restructuring, Mr. Kaiser's recommendations helped the Opera thrive. These are just a few examples of high-profile success in Mr. Kaiser's career as an arts administrator.

Now, Mr. Kaiser wants to use his talents to help struggling arts organizations across the country. The “Arts in Crisis” program offers free consultation from the Kennedy Center's experts about budgeting, fundraising, marketing, and other aspects vital to a struggling organization. Whether by phone, email, or in-person visits, the Kennedy Center's talented staff freely gives of their time and talents to help preserve America's cultural establishments. I am confident that this unique program will enable struggling arts organizations to emerge from the economic downturn stronger than ever.

I urge every arts institution that is struggling during this difficult time to take advantage of Mr. Kaiser and this exceptional team of experts. I know that the arts in Nevada will benefit from the Kennedy Center's sound advice and I look forward to Mr. Kaiser's visit to my State.

HEALTH CARE POLLS

Mr. KYL. Madam. President, a spate of new polls reveal that, while Ameri-

cans want health care reform, just as all of us in Congress do, most of them oppose the plan put forward by President Obama, disapprove of his handling of health care, and have serious concerns about the cost of his plan and how it would affect the quality of their own health care.

For example, a Rasmussen poll released July 22 shows a full 53 percent of voters oppose the health care legislation “working its way through Congress.”

A July 17 Zogby poll backs up these findings, revealing that a full 50 percent of Americans disapprove of the health care bill introduced in the House of Representatives and endorsed by President Obama.

A July 20, USA Today/Gallup poll shows that 50 percent of Americans disapprove of the President's overall handling of this issue.

These findings dovetail with polling that indicates Americans are very wary of the projected costs of the President's health care plan.

Zogby's July 17 poll shows that 59 percent of Americans say the President's proposals, including health care, call for too much government spending.

And a whopping 78 percent of U.S. voters believe it is at least somewhat likely that taxes will be raised on the middle class to cover the cost of health care reform, a July 16 Rasmussen poll tells us.

Nearly half of respondents—44 percent believe “government-managed coverage” will increase—not decrease—the price of health care, according to a July 21 Public Strategies Inc/Politico poll. Only 27 percent think a government-managed health care system would lower costs, while 29 percent said prices would remain the same.

Americans' concerns about how the President's plan would affect health care access and quality are reflected in this same Public Strategies/Politico survey.

Asked by pollsters “what effect a government-managed health care coverage option would have on access to health services, 40 percent said it would make the situation worse, 38 percent said it would make it better, and 22 percent said it would remain the same.”

Asked what effect the President's plan would have on the quality of health care, “42 percent said it would make health care worse, 33 percent said it would make it better, and 25 percent said it would not have an effect.”

We, in Congress, have heard Americans' concerns about the President's proposed health care reform for weeks now—and these concerns were not allayed at all when the Director of the nonpartisan Congressional Budget Office told us that these reforms would actually increase, rather than decrease, costs, and drive our Nation more deeply into debt.

That statement, along with congressional Democrats' plan to raise taxes

on small businesses—creators of two-thirds of new jobs in America—as well as individuals, should put to rest any claims that we need this Washington-run health care system to help the economy. Moreover, except for tax increases, many of the proposals in the President's bill wouldn't take effect for at least another 4 years, by which time the recession will hopefully be over.

In a recent radio address, President Obama criticized those “who make the same old arguments” in opposition to his health care plan and painted those who object to it as obstructionists.

I would like to know why the President equates having legitimate, honest objections to a government-run regulatory health care system with being an obstructionist?

No one in Washington wants to block health care reform. But many of us want to take the time to achieve the right kind of reform—the kind Americans are looking for.

Republicans want an approach that will bring costs down, make sure health care is accessible to all, and fix parts that aren't currently working. We have put forward many sensible ideas on how we can get there, without jeopardizing the care many happily insured Americans have.

To reiterate some of those ideas: We want to root out Medicare and Medicaid fraud, reform medical liability laws to discourage “jackpot justice,” allow small businesses to band together and purchase health insurance as large corporations can, allow insurance companies to sell their policies across State lines—just as car-insurance companies can—and strengthen wellness and prevention programs that encourage healthy living. We believe we should apply specially tailored solutions to specific problems, rather than scrap the whole current system and impose a one-size-fits-all Washington-run health care system.

If the President's plan is implemented, Americans could be left with a health care system that few people would recognize, or even want. And they would be stuck with it, permanently.

I urge President Obama and congressional Democrats to take a harder look at Republican ideas, which the Republican leader, many of my colleagues, and I have spoken of repeatedly.

These reforms would put patients first, lower costs, make health care more accessible to the uninsured, and most wouldn't cost taxpayers a dime. I believe that is an approach Americans would be sure to support.

Madam President, I ask unanimous consent that the Wall Street Journal article “Health Reform's Hidden Victims” be printed in the RECORD.

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

[From the Wall Street Journal, July 24, 2009]

HEALTH REFORM'S HIDDEN VICTIMS

(By John Fund)

President Barack Obama's health-care sales pitch depends on his ability to obfus-

cate who is likely to get hurt by reform. At Wednesday's news conference, for example, he was asked “specifically what kind of pain and sacrifice” he would ask of patients in order to achieve the cost savings he promises.

He insisted he “won't reduce Medicare benefits” but instead would “make delivery more efficient.” The most Mr. Obama would concede is that some people will have to “give up paying for things that don't make you healthier.” That is simply not credible.

While Democrats on Capitol Hill dispute claims that individuals will lose their existing coverage under their reform plans, on other issues many Democrats privately acknowledge some people will indeed get whacked to pay for the new world of government-dominated health care.

Democrats have been brilliant in keeping knowledge about the pain and sacrifice of health reform from the very people who would bear the brunt of them. They've done so by convincing health-care industry groups not to run the kind of “Harry and Louise”-style ads that helped sink HillaryCare in 1993.

Sen. Tom Coburn (R., Okla.) says the pressure not to run ads has been “intense, bordering on extortion.” “Groups were told if they did they'd give up their seat at the table,” says former House Speaker Newt Gingrich. “What they weren't told is that they'd be at the table as lunch.”

Here are some of the groups on the menu if anything like the existing Senate or House health plans become law:

Young people. If the government mandates that everyone must have health insurance, healthy young people will have to buy policies that don't reflect the low risk they have of getting sick. The House and Senate bills do let insurers set premiums based on age, but only up to a 2-to-1 ratio, versus a real-world ratio of 5 to 1. This means lower prices for older (and wealthier) folks, but high prices for the young. “They'll have sticker shock,” says Rep. Paul Ryan, ranking Republican on the Budget Committee.

Small Businesses. Employers who don't provide coverage will have to pay a tax up to 8% of their payroll. Yet those who do provide coverage also have to pay the tax—if the law says their coverage is not “adequate.” Amazingly, even if a small business provides adequate insurance but its employees choose coverage in another plan offered through the government, the employer still must pay.

Health Savings Account (HSA) holders. Eight million Americans, according to the Treasury Department, are covered by plans with low-cost premiums and high deductibles that are designed for large, unexpected medical costs. Money is also set aside in a savings account to cover the deductibles, and whatever isn't spent in one year can build up tax-free. Nearly a third of new HSA users, according to Treasury figures, previously had no insurance or bought coverage on their own.

These policies will be severely limited. The Senate plan says a policy deemed “acceptable” must have insurance (rather than the individual) pay out at least 76% of the benefits. The House plan is pegged at 70%. That's not the way these plans are set up to work. Roy Ramthun, who implemented the HSA regulations at the Treasury Department in 2003, says the regulations are crippling. “Companies tell me they could be forced to take products off the market,” he said in an interview.

Medicare Advantage users. Mr. Obama and Congressional Democrats want to cut back this program—care provided by private companies and subsidized by the government. Medicare Advantage grew by 15% last year; 10.5 million seniors, or 22% of all Medicare patients, are now enrolled.

The program is especially popular with those in badly served urban areas and with those who can't afford the premiums for Medicare supplemental (MediGap) policies. A total of 54% of Hispanics on Medicare have chosen Medicare Advantage, as have 40% of African-Americans, according to the Centers for Medicare and Medicaid Services at the Department of Health and Human Services.

These plans tend to provide better coordinated and preventive care, and richer prescription drug coverage. But Democrats dislike Medicare Advantage's private-sector nature, and they have some legitimate beefs with its unevenly generous reimbursement rates. This week Mr. Obama told the Washington Post that the program was “a prime example” of his efforts to cut Medicare spending, because he claims people “aren't getting good value” from it.

That's not what others say. In January, Oregon's Democratic Gov. Ted Kulongoski wrote the Obama administration expressing his concern about its efforts “to scale back Medicare Advantage” because the plans “play an important role in providing affordable health coverage.” He noted that 39% of Oregon's Medicare patients had chosen Medicare Advantage, and that in “some of our Medicare Advantage plans . . . with proper chronic disease management for such conditions as heart disease, asthma and diabetes, hospitalization admission rates have declined.”

The \$156 billion in Medicare Advantage cuts over the next decade proposed by Mr. Obama will force many seniors to go back to traditional Medicare at greater expense. A new study for the Florida Association of Health Plans found that because Medicare Advantage plans have richer benefits and lower deductibles and copayments than traditional Medicare, seniors in that state would face dramatically higher payments if forced to give up their Medicare Advantage plans. Cost increases would range from \$2,214 a year in Jacksonville to \$3,714 a year in Miami.

There are reasons that Blue Dog Democrats in Congress are leery of their party's health-care reform plans. Many are in districts or states carried by John McCain, and they worry about the political fallout when these groups realize they will be paying for health-care reform.

They also know that every government entitlement winds up becoming a money pit. In 1965, Sen. Allen Ellender (D., La.) dismissed promises that Medicare would be a modest program to save seniors from bankruptcy. “Let us not be so naive as to believe that the Medicare program will not be increased from year to year to the point that the government will have to impose more taxes on the little man or else take the necessary money out of the Treasury,” he told colleagues.

Ellender was right, and his warning is even more relevant in our era of skyrocketing deficits and Medicare costs. The only way the House and Senate health plans can pass is if the costs they impose on vulnerable parts of the population continue to be hidden.

DISCLOSURE OF CONGRESSIONALLY DIRECTED SPENDING ITEMS

Mr. INOUE. Madam President, pursuant to Senate rules, I submit a report, and I ask unanimous consent that it be printed in the RECORD.

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

DISCLOSURE OF CONGRESSIONALLY DIRECTED
SPENDING ITEMS

I certify that the information required by rule XLIV of the Standing Rules of the Senate related to congressionally directed spending items has been identified in the committee report which accompanies S. 1436 and that the required information has been available on a publicly accessible congressional Web site at least 48 hours before a vote on the pending bill.

COMMENDING THE CREW OF STS-
125

Mr. UDALL of Colorado. Madam President, today I wish to congratulate and honor the crew of STS-125, who conducted NASA's fifth and final mission to the Hubble Space Telescope earlier this year. The crew—Commander Scott D. Altman, Pilot Gregory C. Johnson and mission specialists John M. Grunsfeld, Michael J. Massimino, Andrew J. Feustel, Michael T. Good and Megan McArthur—brilliantly executed a mission that included an unprecedented five spacewalks in 5 consecutive days to install two new instruments, repair two others and add necessary upgrades to extend the life of the Hubble. Most importantly, they returned safely to Earth.

I would like to specifically acknowledge Dr. Grunsfeld, whom I have had the pleasure of knowing for many years. Prior to the mission, the New York Times referred to Dr. Grunsfeld as the “keeper of the Hubble” because of his long commitment to the program, including three servicing missions. I cannot imagine a better caretaker. Without him, the Hubble would not be the unparalleled success it is today. I am also thrilled that Dr. Grunsfeld will be joining the faculty of the University of Colorado at Boulder after an extraordinary career at NASA.

I had the pleasure of meeting with the crew last week. We talked about the marathon spacewalks needed to install upgrades to Hubble that often required on-the-spot improvisation by the astronauts. It is a testament to the crew's professionalism, teamwork and resourcefulness that the spacewalks were so successful given such challenging conditions. We also discussed what each astronaut will be doing next—most will be returning to the astronaut corps awaiting their next mission—and how the microgravity of space adds an inch or more to your height. I appreciate the time they gave me and am always honored to visit with these extraordinary Americans.

It isn't widely known, but the State of Colorado and NASA have deep connections. The University of Colorado receives more research funding from NASA than any other university. Colorado enjoys the second largest aerospace economy in the country, behind only California, including significant endeavors in both civilian and military aerospace. After this final servicing mission, which added the cosmic origins spectrograph and widefield camera

3 to the Hubble, every scientific instrument on the Hubble Space Telescope has been made by Boulder, Colorado-based Ball Aerospace. Ball also built the corrective optics to fix the telescope's flawed vision upon installation in 1993. Ball Aerospace played an essential part in the Hubble story, and I am extremely proud of the contributions it has made to Hubble's success.

We should not forget that there was a time when it appeared this mission would never occur. Following the Space Shuttle *Columbia* tragedy, NASA initially decided to cancel all further missions to Hubble, arguing that it was too risky. At the time, I was a member of the House of Representatives Science Committee's Space and Aeronautics Subcommittee, and I strongly urged NASA to reconsider its decision. I believed that we should not abandon the world's greatest scientific instrument when servicing missions were no riskier than missions to the International Space Station, which NASA was planning to continue. I was pleased that, after some deliberation, NASA changed course and decided to go forward with the final servicing mission.

Hindsight being what it is, it is easy to say that continuing the Hubble servicing mission was the right choice to make. But for me, it was always the best option. As Dr. Grunsfeld said during the mission, the Hubble is about humanity's quest for knowledge. Over the past 19 years, the Hubble Space Telescope has opened fantastic windows into the universe. With it we have seen the pillars of creation and the death throes of distant stars. We have seen signs of supermassive black holes at the centers of galaxies and evidence that our universe is expanding at an ever increasing rate. And we have found planets similar to our own orbiting stars much like the Sun, reigniting old debates that force us to ask if we are alone in this universe. That is a quest we should not easily give up.

I find it fitting that the crew of STS-125 visited Capitol Hill on the same week as the 40th anniversary of the *Apollo 11* Moon landing. For an agency that has had its fair share of tragedies and triumphs, surely the *Apollo 11* mission and the Hubble Space Telescope stand out as shining examples of the heights NASA can reach. They are arguably the agency's greatest successes in manned and unmanned space exploration.

As high water marks of the past, they also offer useful perspective on the future of NASA. NASA is at a crossroads, where we must answer questions about the future balance of manned versus unmanned space exploration, about whether we should set our sights next on the Moon, Mars or some other goal, about how to cope with completion of the International Space Station and retirement of the Space Shuttle in coming years. And we must answer all of these questions during the most difficult economic conditions of a generation. I look forward to

those debates in the Senate, but they are debates for another day.

Today is about honoring the crew of STS-125. Our thanks go out to Scott Altman, Gregory Johnson, John Grunsfeld, Michael Massimino, Andrew Feustel, Michael Good and Megan McArthur, and all of the other Hubble caretakers over the years. They have steadied Hubble's gaze, sharpened its vision and extended its reach. Thanks to them we can keep our eyes focused on the heavens, touch the face of God and learn a little more about the universe and ourselves.

COMMENDING DETROIT SHOCK

Mr. LEVIN. Madam President, this afternoon, I had the pleasure of joining President Obama on the South Portico of the White House for a ceremony to honor the Detroit Shock on winning the 2008 WNBA championship. This is the third WNBA Championship in 6 years for the Shock, an outstanding accomplishment for the WNBA's first expansion franchise and one in which many across the State of Michigan take great pride. As one of only two teams to win three or more championships in the league history, the Detroit Shock is clearly a part of an elite group in the WNBA.

The Shock completed a hard fought title run with a three game sweep of the San Antonio Silver Stars, capped by a 76-60 victory in the final game before an elated home crowd. Those in attendance, as well as those in Detroit and across Michigan, were pleased with the poised performance of this veteran team. Through persistence, perseverance and hard work, this team defeated two quality opponents, the Indiana Fever and the New York Liberty, en route to earning a spot in the WNBA finals.

Led by the determined play of Katie Smith, the Shock maintained their focus throughout a grueling regular season and their ensuing march toward the 2008 WNBA title. Katie Smith averaged 21.7 points per game in the finals and won the 2008 WNBA Finals Most Valuable Player award.

This championship win was yet another milestone in the storied career of head coach Bill Laimbeer, who was at the helm of each of the Shock's championship runs. He has amassed a total of five professional basketball titles, which includes two as a player for the Detroit Pistons. This was also the sixth championship for Detroit Shock owner Bill Davidson's Detroit sports teams. Fortunately, he was able to enjoy this championship before his recent death in March.

Each member of the Detroit Shock organization made valuable contributions through the season and during this memorable championship run, including Kara Braxton, Cheryl Ford, Alexis Hornbuckle, Taj McWilliams-Franklin, Deanna Nolan, Plenetta Pier-son, Elaine Powell, Sheri Sam, Olayinka Sanni, Kelly Schumacher,

Ashley Shields, and Katie Smith, as well as head coach, Bill Laimbeer, and assistant coaches Rick Mahorn, Cheryl Reeve, and Laura Ramus. I know my colleagues join me in congratulating the Detroit Shock on their third championship in franchise history. The people of Michigan look forward to witnessing the Shock continue to build on this success in the years ahead.

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

DEFENSE AUTHORIZATION

• Ms. MIKULSKI. Madam President, our military is under an unprecedented stress. Over 140,000 American servicemembers are deployed fighting in Iraq and Afghanistan. Many have made multiple deployments. Their families are also fighting on the home front to live normal lives despite repeated absences of a spouse or parent. Our nation owes our servicemembers and their families an enormous debt of gratitude. Congress has a sacred trust to provide for their needs.

The fiscal year 2010 Defense authorization bill passed by the Senate ensures that our servicemembers on the battlefield have what they need to complete their missions come home safely to their families and communities. It provides for advanced armored vehicles to keep them safe from roadside IEDS. It also authorizes an increase of 30,000 additional soldiers for the Army to help reduce the strain of repeated Iraq and Afghanistan deployments.

I commend Chairman LEVIN and Ranking Member MCCAIN for their leadership in crafting this bill. They have carefully balanced many competing priorities. They recommended a bill that looks out for the needs of our men and women while also looking out for their families. They have made hard choices to cut programs that are not working or are no longer needed. This is not an easy task. We should all be grateful for their dedication to our military and to our Nation's security.

This bill really looks out for our military personnel and their families. It includes a 3.4-across-the-board pay raise, half a percentage point more than requested. It increases the supplemental subsistence allowance from \$500 to \$1100 per month to ensure that servicemembers and their families do not have to rely on food stamps. It also authorizes \$30 million in IMPACT aid to help communities educate military kids, including \$10 million for communities hard hit by BRAC, and \$5 million to help educate military kids with severe disabilities. It has been said time and again, that while we recruit the soldier into the military, we must retain the family. This is especially true in this time of great stress on our military. This bill recognizes and responds to this reality.

I am also very glad that once again, the Senate is passing a DOD authorization that looks out for wounded warriors. This bill requires that DOD in-

crease the number of behavioral health specialists to ensure the military has enough doctors trained to identify and prevent suicide and post-traumatic stress disorder. It also directs DOD to devise strategies for electronic medical record exchanges between the military medical and Veterans Administration systems. This is critical to ensuring a smooth transition of care from one medical system to the other, and a timely processing of disability and benefits claims. When a soldier is injured, we incur a 50 year commitment for their care. I am glad that this bill helps ensure that those promises made will be promises kept.

The Senate considered many amendments during our two weeks of debate on this important bill. There are two that I want to discuss in particular.

I am pleased that the Senate supported President Obama, Secretary of Defense Gates, Chairman of Joint Chiefs of Staff ADM Mike Mullen and Air Force leaders in their decision to end the F-22 program. The F-22 will ensure the U.S. Air Force is dominant in future air-to-air conflicts. It is a credit to engineers and technicians who designed and built this great plane. Everyone involved in this program should be proud. However, I agree with the President that the time has come to bring F-22 production to an end so we can channel limited dollars to fielding the Joint Strike Fighter as soon as possible. I support ending the F-22 at 187 planes, and would have voted in support of the McCain-Levin amendment on the Senate floor to accomplish this.

I am also pleased that the Senate voted to reject the amendment proposed by Senator THUNE to allow gun owners to carry concealed weapons across State lines without first getting a permit to do so from the State they are entering. The second amendment guarantees Americans the right to bear arms. However, each state must be able to make reasonable rules to protect residents and public safety officers, and this amendment would have made that impossible. It also would have undermined Congress's long-standing respect for State's rights to enact and enforce their own gun laws. It is no surprise that large city mayors and police chiefs all over the country opposed this amendment. I would have opposed it also, and I believe the Senate did the right thing in defeating the Thune amendment.

In closing, I reiterate my strong support for this bill. It puts our servicemembers and their families first, provides our troops with what they need to accomplish their missions, and it makes wise investments in our Nation's security.●

ADDITIONAL STATEMENTS

WOMEN AIRFORCE SERVICE PILOTS

• Mrs. LINCOLN. Madam President, with Arkansas pride and heartfelt grat-

itude, I would like to thank and honor the brave Arkansans who served as Women Airforce Service Pilots—or WASPs, as they were more commonly called—during World War II.

During the war, women were recruited to fly noncombat missions under the Army Air Corps, so that male pilots could be deployed in combat. They served as test and instructor pilots, towed targets for air-to-air gunnery practice and ground-to-air anti-aircraft practice, ferried and transported personnel and cargo, including parts for the atomic bomb, and simulated combat maneuvers. In short, they flew every type of military aircraft on every type of mission, except direct combat missions.

Between 1942 and 1944, 25,000 young American women volunteered for flight training and service. Of these, 1830 were accepted and 1074 would eventually successfully complete their training. Four of those who received their wings were from Arkansas.

Dorothy Rae Barnes, from Hot Springs, AR, graduated from Hot Springs High School in 1935. She became a WASP, she said, because she had friends who were early WASP recruits and they encouraged her to join. She graduated from flight school in July 1943 and, as a WASP, flew the AT-6, a single-engine advanced trainer aircraft used to train fighter pilots, and the BT-13, a basic trainer flown by most American pilots during World War II. After her wartime experiences, she returned to Hot Springs, where she still lives today.

Geraldine Tribble Vickers Crockett, from Stevens, AR, became interested in flying because of an older brother, who was a flight instructor. He enrolled her in a civilian pilot training program that he was teaching in Little Rock and it was there that she earned her private pilot license. She went into the WASPs in 1944 and, like Dorothy Barnes, flew AT-6 and BT-13 aircraft. After deactivation, she went on to get her instructor and commercial licenses and taught flying to veterans on the G.I. bill. She now lives in Palm Springs, CA.

Betty Fulbright White, from Clarksville, AR, was in the last WASP class to graduate in December 1944. During her shortened service, she pulled targets for gunnery practice and transported cargo. After the war, she returned to Clarksville, where she passed away in 1985.

Thirty-eight women died during their service. They were denied military honors and their families bore all the costs of transporting their bodies home and arranging for their burials. One of those was Lea Ola McDonald. Lea McDonald was born in Hollywood, AR, on October 12, 1921. She entered WASP training in Houston, TX, in January 1943 and graduated in April 1944. She was killed less than 4 months later while flying an A-24 attack bomber on a practice flight at the age of 22.

During their time in service, these women faced overwhelming cultural

and gender bias. They received unequal pay, did not have full military status, and were barred from becoming military officers. At the end of the war, the women were ordered to leave military service and paid for their own transportation home. It was not until 1977 that the WASPs who served during the war were provided veterans' benefits.

WASPs were America's first women to fly military aircraft and are a source of inspiration for current and future generations of Americans. I am so proud of these women from Arkansas, and from all over the United States, who served our country under dangerous and difficult circumstances. While we could never fully express the extent of our appreciation for their service, President Obama signed Public Law 111-40 on July 1, 2009, authorizing Congress to bestow a gold medal in honor of these patriotic Americans. I was honored to be an original cosponsor of the bill and I am happy that Congress has bestowed this long-overdue honor.●

100TH ANNIVERSARY OF THE TILLAMOOK COUNTY CREAMERY ASSOCIATION

● Mr. MERKLEY. Madam President, today I wish to recognize the Tillamook County Creamery Association, a farmer-owned dairy cooperative that was founded 100 years ago. In 1909, 10 small independent cheese plants formed an association in Tillamook County, OR, to produce, distribute, and market quality cheese products that are now sold across the country. Today, Tillamook Cheese is cooperatively owned by 115 dairy farming families. As a national leader in the dairy industry, the Tillamook County Creamery Association produces some of the highest quality milk for cheese-making.

Tillamook County Creamery Association has been honored, not only for their quality dairy products, but for their commitment to community and environmental stewardship. The farmer-owners have been recognized nationally for their dedication to maintaining healthy herds and farmland. They have worked to improve water quality, protect local salmon habitat, and rebuild stream habitats in Tillamook County. In addition to being responsible stewards for Oregon's environment, they've also been advocates in addressing hunger in Oregon communities. In partnership with the Oregon Food Bank, the Tillamook County Creamery Association has contributed countless meals to families in need and worked with school districts to help provide cheese for school lunch programs.

In addition to cheese production, the Tillamook County Creamery Association contributes to the local economy by attracting nearly 1 million tourists every year, making it one of the top tourist attractions in the State. The Tillamook County Creamery Associa-

tion is a shining example of dedication to the State of Oregon and to the health of the coastal economy. The cooperative's mission is "the controlled and profitable growth of consistent, high quality, great tasting Tillamook branded products to meet the demand of the marketplace while optimizing returns to members." The Tillamook County Creamery Association has achieved that vision and much more in Oregon for a century and will undoubtedly carry on that tradition for years to come.

I encourage my fellow Oregonians, my colleagues in the Senate and the entire nation to recognize this anniversary and to congratulate the Tillamook County Creamery Association on 100 years of excellence.●

COMMENDING MAYOR PAT RUSSELL

● Mrs. SHAHEEN. Madam President, I wish to convey my sincere thanks and appreciation in recognizing Pat Russell, from Keene, NH, for her four decades of distinguished service to the State of New Hampshire. On August 1, Pat is retiring from her role as commissioner of the New Hampshire State Liquor Commission, and I am pleased to submit this statement to the RECORD.

Pat Russell has spent her life serving her community, her State, and her country. She was elected to six terms in the New Hampshire House of Representatives and two terms as mayor of Keene. She served with distinction on President Clinton's Council for Developmental Disabilities and for the past ten years she has served on the New Hampshire State Liquor Commission.

To each of these roles, Pat brought a willingness to roll up her sleeves and get to work for those she served. Her record of accomplishment and her wide circle of admirers speak to the qualities that defined her work: intelligence, persistence and devotion to the State of New Hampshire and her beloved city of Keene.

As Governor of New Hampshire, I was looking for someone with these qualities to fill a coming vacancy on the State Liquor Commission. I offered the position to mayor Pat Russell of Keene, who graciously accepted. Since that day in 1999, Commissioner Russell has overseen what she refers to as "a perfectly oiled machine with absolutely fantastic employees." Indeed, under Pat's leadership, the commission has thrived, contributing over \$100 million each year to New Hampshire's general fund.

New Hampshire is proud and grateful for Pat's service and I know her absence will be felt by all who have relied on her leadership and strength. On a personal note, Pat has been a dear friend and mentor to me for over 30 years. I have admired not only her multifaceted professional abilities, but also her commitment to make a difference for the people of New Hamp-

shire. I wish her well in a much-deserved retirement, but I also believe that Pat still has more she wants to do. I know that whatever she does, it will be in the service of others.

I ask my colleagues to join me in recognizing our commissioner, the Honorable Pat Russell.●

COMMENDING THE HARVEY S. FIRESTONE CLASS OF 1969

● Mr. VOINOVICH. Madam President, today I would like to congratulate the members of the 1969 Class of Harvey S. Firestone High School in Akron, OH, on the 40th anniversary of their graduation. Graduates of Firestone's Class of '69 have gone on to become distinguished and accomplished educators, scientists, doctors, artists, entertainers, athletes, public officials, entrepreneurs, and moms and dads. This is a tribute not only to those students, but also to their teachers who gave lavishly of their time, attention and knowledge to ensure a sound foundation for almost 400 young men and women.

The State of Ohio has been long recognized for its excellence in education, and the 1969 graduates of Firestone High continue to leave a legacy that is a testimony to that excellence. This weekend these graduates will travel from all parts of the country and beyond to reminisce, and rekindle friendships. I ask Members of the Senate to join me today in congratulating the Harvey S. Firestone Class of 1969.●

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 2:03 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, in which it requests the concurrence of the Senate:

H.R. 3288. An act making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 3293. An act making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

ENROLLED BILL SIGNED

At 2:18 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3114. An act to authorize the Director of the United States Patent and Trademark Office to use funds made available under the Trademark Act of 1946 for patent operations in order to avoid furloughs and reductions-in-force, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. WARNER).

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 4:44 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

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. 2245. An act to authorize the President, in conjunction with the 40th anniversary of the historic and first lunar landing by humans in 1969, to award gold medals on behalf of the United States Congress to Neil A. Armstrong, the first human to walk on the moon; Edwin E. "Buzz" Aldrin, Jr., the pilot of the lunar module and second person to walk on the moon; Michael Collins, the pilot of their Apollo 11 mission's command module; and, the first American to orbit the Earth, John Herschel Glenn, Jr.

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 enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. WARNER).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3288. An act making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; to the Committee on Appropriations.

H.R. 3293. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1016. An act to amend title 38, United States Code, to provide advance appropriations authority for certain accounts of the Department of Veterans Affairs, and for other purposes.

H.R. 2182. An act to amend the American Recovery and Reinvestment Act of 2009 to provide for enhanced State and local oversight of activities conducted pursuant to such Act, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2439. A communication from the Acting Administrator, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, a report relative to the Administration's intent to enter into a contract with BOS Security, for screening services at the Roswell International Air Center; to the Committee on Commerce, Science, and Transportation.

EC-2440. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Television Broadcasting Services; St. Paul, Minnesota" ((DA 09-1495) (MB Docket No. 09-71)) received in the Office of the President of the Senate on July 17, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2441. A communication from the Deputy Chief Counsel of Regulations and Security Standards, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Revision of Enforcement Procedures" (RIN1652-AA62) received in the Office of the President of the Senate on July 17, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2442. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies Under Section 312 of the Fair and Accurate Credit Transactions Act" (RIN313-AC93) received in the Office of the President of the Senate on July 15, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2443. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 30B Supplement" (RIN0648-AX73) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2444. A communication from the Secretary of the Department of Transportation, transmitting, pursuant to law, a report entitled "Report to Congress on the Fiscal Year 2008 Competitive Sourcing Efforts"; to the Committee on Commerce, Science, and Transportation.

EC-2445. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Theft Prevention Standard; Final Listing of 2010 Light Duty Truck Lines Subject to the Requirements of This Standard and Exempted Vehicle Lines for Model Year 2010" (RIN2127-AK47) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2446. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Anthropomorphic Test Devices; SID-IIs Side Impact Crash Test Dummy; 5th Percentile Adult Female; Final Rule" (RIN2127-

AK26) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2447. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Removal and Modification of VOR Federal Airways; Alaska" ((RIN2120-AA66) (7-2/7-6/0940/AAL-25)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2448. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment, Revision, and Removal of Area Navigation Routes; Alaska" ((RIN2120-AA66) (7-2/7-6/0926/AAL-24)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2449. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Requirements for Amateur Rocket Activities; CORRECTION" ((RIN2120-AI88) (FAA-2007-27390/7-2/7-6)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2450. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reduction of Fuel Tank Flammability in Transport Category Airplanes; CORRECTION" ((RIN2120-AI23) (FAA-2005-22997/7-2-09/7-2-09)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2451. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revisions to Cockpit Voice Recorder and Digital Flight Data Recorder Regulations; CORRECTION" ((RIN2120-AH88) (7-9/7-9)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2452. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revisions to Digital Flight Data Recorder Regulations for B-737 Airplanes and for Part 125 Operators; CORRECTION" ((RIN2120-AG87) (7-9/7-9)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2453. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drug and Alcohol Testing Program; Technical Amendment" ((RIN2120-AJ37) (7-9/7-9)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2454. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Amendment 3329" ((RIN2120-AA65) (7-13/7-14/30675/3329)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2455. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Amendment 3328" ((RIN2120-AA65) (7-13/7-14/30674/3328)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2456. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F.28 Mark 0100 Airplanes" ((RIN2120-AA64) (7-2/6-29/0198/NM-129)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2457. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes" ((RIN2120-AA64) (7-2/6-29/0160/NM-176)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2458. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Turbomeca S.A. Arrius 2F Turboshaft Engines" ((RIN2120-AA64) (7-2/6-29/22039/NE-33)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2459. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; General Electric Company CF6-80C2B5F Turbofan Engines" ((RIN2120-AA64) (7-2/7-1/0121/NE-36)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2460. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747-400 and -400F Series Airplanes Powered by Rolls-Royce RB211 Series Engines" ((RIN2120-AA64) (7-2/6-30/0556/NM-112)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2461. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Turbomeca S.A. Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, D, 1D1, 1E2, 1K1, 1S, and 1S1 Turboshaft Engines" ((RIN2120-AA64) (7-2/6-30/0544/NE-17)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2462. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747 Airplanes" ((RIN2120-AA64) (7-2/6-29/1071/NM-093)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2463. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled "Airworthiness Directives; Bombardier Model BD-700-1A10 and BD-700-1A11 Airplanes" ((RIN2120-AA64) (7-13/7-15/0138/NM-216)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2464. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes" ((RIN2120-AA64) (7-13/7-15/0832/NM-067)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2465. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Cessna Aircraft Company Models 208 and 208B Airplanes" ((RIN2120-AA64) (7-13/7-15/0638/CE-038)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2466. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company) Model G36 Airplanes" ((RIN2120-AA64) (7-13/7-15/00633/CE-037)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2467. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Turbomeca S.A. Arrius 2F Turboshaft Engines" ((RIN2120-AA64) (7-13/7-15/0330/NE-43)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2468. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; PILATUS AIRCRAFT LTD. Models PC-12, PC-12/45, PC12/47, and PC-12/47E Airplanes" ((RIN2120-AA64) (7-13/7-15/0437/CE-018)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2469. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Sikorsky Aircraft Corporation Model S-92A Helicopters" ((RIN2120-AA64) (7-13/6-16/0518/SW-22)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2470. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt & Whitney Canada Corp. Models PW305A and PW305B Turbofan Engines" ((RIN2120-AA64) (7-9/7-9/0046/NE-05)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2471. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing

Model 777 Airplanes" ((RIN2120-AA64) (7-9/7-8/0933/NM-261)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2472. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dassault Model Mystere-Falcon 20-C5, 20-D5, 20-E5, and 20-F5 Airplanes" ((RIN2120-AA64) (7-9/7-8/0263/NM-137)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2473. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dassault Model Falcon 2000EX Airplanes" ((RIN2120-AA64) (7-9/7-8/0380/NM-153)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2474. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes" ((RIN2120-AA64) (7-9/7-8/1116/NM-231)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2475. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier Model CL-600-1A11 (CL-600), CL-600-2A12 (C-601), CL-600-2B16 (CL-601-3S, CL-6013R, and CL-604) Airplanes" ((RIN2120-AA64) (7-9/7-8/0044/NM-132)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2476. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; EADS-PZL "Warszawa-Okecie" S.A. Model PZL-104 WILGA 80 Airplanes" ((RIN2120-AA64) (7-9/7-8/0446/CE-024)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

EC-2477. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt & Whitney Models PW2037, PW2037(M), and PW2040 Turbofan Engines" ((RIN2120-AA64) (7-9/7-8/0417/NE-13)) received in the Office of the President of the Senate on July 22, 2009; to the Committee on Commerce, Science, and Transportation.

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. BURRE:

S. 1518. A bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune; to the Committee on Veterans' Affairs.

By Mr. CARDIN (for himself, Mr. VITTER, Ms. LANDRIEU, Ms. MIKULSKI, and Mr. MERKLEY):

S. 1519. A bill to provide for the eradication and control of nutria in Maryland, Louisiana, and other coastal States; to the Committee on Environment and Public Works.

By Mr. JOHNSON:

S. 1520. A bill to grant a Federal charter to the National American Indian Veterans, Incorporated; 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 Mrs. LINCOLN (for herself and Mr. CRAPO):

S. Con. Res. 36. A concurrent resolution supporting the goals and ideals of "National Purple Heart Recognition Day"; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 244

At the request of Mr. BOND, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 244, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 307

At the request of Mr. WYDEN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 307, a bill to amend title XVIII of the Social Security Act to provide flexibility in the manner in which beds are counted for purposes of determining whether a hospital may be designated as a critical access hospital under the Medicare program and to exempt from the critical access hospital inpatient bed limitation the number of beds provided for certain veterans.

S. 455

At the request of Mr. ROBERTS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry "Hap" Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

S. 461

At the request of Mrs. LINCOLN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 482

At the request of Mr. FEINGOLD, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 482, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 624

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 624, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis by 2015 by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 660

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 660, a bill to amend the Public Health Service Act with respect to pain care.

S. 671

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 671, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes.

S. 730

At the request of Mr. ENSIGN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.

S. 796

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Mr. CARDIN) 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. 806

At the request of Mr. VOINOVICH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 806, a bill to provide for the establishment, administration, and funding of Federal Executive Boards, and for other purposes.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 819

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 819, a bill to provide for enhanced treatment, support, services, and re-

search for individuals with autism spectrum disorders and their families.

S. 846

At the request of Mr. DURBIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 850

At the request of Mr. KERRY, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 908

At the request of Mr. BAYH, the name of the Senator from Delaware (Mr. CARPER) 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. 910

At the request of Mr. WARNER, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 910, a bill to amend the Emergency Economic Stabilization Act of 2008, to provide for additional monitoring and accountability of the Troubled Asset Relief Program.

S. 931

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 931, a bill to amend title 9 of the United States Code with respect to arbitration.

S. 975

At the request of Mr. MARTINEZ, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 975, a bill to amend title XVIII of the Social Security Act to reduce fraud under the Medicare program.

S. 1065

At the request of Mr. BROWNBACK, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Maine (Ms. SNOWE), the Senator from New York (Mrs. GILLIBRAND) and the Senator from Oregon (Mr. WYDEN) 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. 1085

At the request of Mr. MENENDEZ, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1085, a bill to amend the Immigration and Nationality Act to promote family unity, and for other purposes.

S. 1131

At the request of Mr. WYDEN, the name of the Senator from New Jersey

(Mr. MENENDEZ) was added as a cosponsor of S. 1131, a bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to coordinated, primary care medical services in lower cost treatment settings, such as their residences, under a plan of care developed by a team of qualified and experienced health care professionals.

S. 1146

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1146, a bill to direct the Attorney General to provide grants and access to information and resources for the implementation of the Sex Offender Registration Tips and Crime Victims Center Programs.

S. 1244

At the request of Mr. MERKLEY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1244, a bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers, to provide for a performance standard for breast pumps, and to provide tax incentives to encourage breastfeeding.

S. 1304

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1344

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1344, a bill to temporarily protect the solvency of the Highway Trust Fund.

S. 1410

At the request of Mr. FRANKEN, his name was added as a cosponsor of S. 1410, a bill to establish expanded learning time initiatives, and for other purposes.

S. 1411

At the request of Mr. FRANKEN, his name was added as a cosponsor of S. 1411, a bill to amend title V of the Elementary and Secondary Education Act of 1965 to encourage and support parent, family, and community involvement in schools, to provide needed integrated services and comprehensive supports to children, and to ensure that schools are centers of communities, for the ultimate goal of assisting students to stay in school, become successful learners, and improve academic achievement.

S. 1457

At the request of Ms. COLLINS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1457, a bill to amend title 31, United States Code, to authorize reviews by the Comptroller General of the United States of any credit facility

established by the Board of Governors of the Federal Reserve System or any Federal reserve bank, and for other purposes.

S. 1490

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of 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.

S. 1492

At the request of Ms. STABENOW, her name was added as a cosponsor of 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.

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1492, *supra*.

S. 1501

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1501, a bill to provide a Federal tax exemption for forest conservation bonds, and for other purposes.

S. 1507

At the request of Mr. CARPER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1507, a bill to amend chapter 89 of title 5, United States Code, to reform Postal Service retiree health benefits funding, and for other purposes.

S. RES. 200

At the request of Mr. UDALL of Colorado, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 200, a resolution designating September 12, 2009, as "National Childhood Cancer Awareness Day".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURR:

S. 1518. A bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune; to the Committee on Veterans' Affairs.

Mr. BURR. Mr. President, I rise today to introduce legislation that will ensure the Department of Veterans Affairs provides health care to veterans and their families who were stationed at Camp Lejeune, North Carolina during the years when the base's well water was contaminated by numerous known and probable human carcinogens.

Thousands of Navy and Marine veterans and their families who lived on

Camp Lejeune have fallen ill with a variety of cancers and diseases believed to be attributable to their service at the base in the years before the EPA designated the base as a Superfund site in 1988.

A recent National Research Council report on the contaminated water at Camp Lejeune assessed that there are numerous adverse health effects associated with human exposure to the chemicals known to have been in water at Lejeune that was used for drinking and bathing.

Many years have passed while Lejeune veterans and their families have waited for some hope of progress on this issue. Some have died waiting. Today, there is much that we now know that was not known in the past, especially a growing body of scientific information about the adverse effects these chemicals have on the human body.

The Lejeune veterans and their families deserve clarity on the cause of their conditions and closure on this tragic situation. It is vitally important we give those who are sick the benefit of the doubt. If a veteran or military family member was stationed at Camp Lejeune during the time the water was contaminated, they should be able to come in to a VA medical center for needed health care. This bill is a step toward providing the veterans of Lejeune and their loved ones with the respect they deserve. Quite frankly, it is the morally right thing to do.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 36—SUPPORTING THE GOALS AND IDEALS OF "NATIONAL PURPLE HEART RECOGNITION DAY"

Mrs. LINCOLN (for herself and Mr. CRAPO) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 36

Whereas the Purple Heart is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President to a member of the Armed Forces who is wounded in a conflict with an enemy force or is wounded while held by an enemy force as a prisoner of war, and is awarded posthumously to the next of kin of a member of the Armed Forces who is killed in a conflict with an enemy force or who dies of wounds received in a conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit;

Whereas the award of the Purple Heart ceased with the end of the Revolutionary War, but was revived in 1932, the 200th anniversary of the birth of George Washington, out of respect for his memory and military achievements; and

Whereas observing National Purple Heart Recognition Day is a fitting tribute to

George Washington and to the more than 1,535,000 recipients of the Purple Heart, approximately 550,000 of whom are still living: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of “National Purple Heart Recognition Day”;

(2) encourages all people in the United States to learn about the history of the Purple Heart and to honor its recipients; and

(3) calls upon the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for members of the Armed Forces who have been awarded the Purple Heart.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1813. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

SA 1814. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1815. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1816. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1817. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1818. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1819. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1820. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1821. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1822. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1823. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1824. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1825. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1826. Mr. MCCAIN submitted an amendment intended to be proposed to amendment

SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1827. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1828. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1829. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1830. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1831. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1832. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1833. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1834. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1835. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1836. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1837. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1838. Mr. BINGAMAN (for himself and Mr. UDALL, of New Mexico) submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1839. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1840. Mr. REED submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

SA 1841. Mr. VOINOVICH (for himself and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1813. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 3183, making ap-

propriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:

TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related efforts.

GENERAL INVESTIGATIONS

For expenses necessary where authorized by law for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restoration projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, \$170,000,000, to remain available until expended.

CONSTRUCTION, GENERAL

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); \$1,924,000,000, to remain available until expended; of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction, replacement, rehabilitation, and expansion of inland waterways projects (including only Chickamauga Lock, Tennessee; Kentucky Lock and Dam, Tennessee River, Kentucky; Lock and Dams 2, 3, and 4 Monongahela River, Pennsylvania; Markland Locks and Dam, Kentucky and Indiana; Olmsted Lock and Dam, Illinois and Kentucky; and Emsworth Locks and Dam, Ohio River, Pennsylvania) shall be derived from the Inland Waterways Trust Fund: *Provided*, That the Chief of Engineers is directed to use \$18,000,000 of the funds appropriated herein for the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: *Provided further*, That the Chief of Engineers is directed to use \$21,750,000 of funds available for the Marlinton, West Virginia Local

Protection Project to continue engineering and design efforts, execute a project partnership agreement, and construct the project substantially in accordance with Alternative 1 as described in the Corps of Engineers Final Detailed Project Report and Environmental Impact Statement for Marlinton, West Virginia Local Protection Project dated September 2008: *Provided further*, That the Federal and non-Federal shares shall be determined in accordance with the ability-to-pay provisions prescribed in section 103(m) of the Water Resources Development Act of 1986, as amended: *Provided further*, That the Chief of Engineers is directed to use \$2,750,000 of the funds appropriated herein for planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: *Provided further*, That the Chief of Engineers is directed to use \$4,000,000 of the funds appropriated herein to continue planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project.

MISSISSIPPI RIVER AND TRIBUTARIES

For expenses necessary for flood damage reduction projects and related efforts in the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$340,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$10,000,000 appropriated herein for construction of water withdrawal features of the Grand Prairie, Arkansas, project.

OPERATION AND MAINTENANCE

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; providing security for infrastructure owned or operated by the Corps, including administrative buildings and laboratories; maintaining harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; surveying and charting northern and northwestern lakes and connecting waters; clearing and straightening channels; and removing obstructions to navigation, \$2,450,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for coastal harbors and channels, and for inland harbors shall be derived from the Harbor Maintenance Trust Fund; of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601-6a(i)), shall be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available from fees collected under section 217 of the Water Resources Development Act of 1996 (Public Law 104-303), shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which such fees have been collected: *Provided*, That 1 percent of the total amount of funds provided for each of the programs, projects or activities funded under this head-

ing shall not be allocated to a field operating activity prior to the beginning of the fourth quarter of the fiscal year and shall be available for use by the Chief of Engineers to fund such emergency activities as the Chief of Engineers determines to be necessary and appropriate; and that the Chief of Engineers shall allocate during the fourth quarter any remaining funds which have not been used for emergency activities proportionally in accordance with the amounts provided for the programs, projects or activities.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$190,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for the supervision and general administration of the civil works program in the headquarters of the United States Army Corps of Engineers, and the offices of the Division Engineers; and for the management and operation of the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, \$186,000,000, to remain available until expended, of which not to exceed \$5,000 may be used for official reception and representation purposes and only during the current fiscal year: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices: *Provided further*, That any Flood Control and Coastal Emergencies appropriation may be used to fund the supervision and general administration of emergency operations, repairs, and other activities in response to any flood, hurricane, or other natural disaster.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For the Office of Assistant Secretary of the Army (Civil Works) as authorized by 10 U.S.C. 3016(b)(3), \$5,000,000, to remain available until expended.

ADMINISTRATIVE PROVISION

The Revolving Fund, Corps of Engineers, shall be available during the current fiscal year for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles for the civil works program.

GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) None of the funds provided in title I of this Act, or provided by previous appropriations Acts to the agencies or entities funded in title I of this Act that remain available for obligation or expenditure in fiscal year 2010, shall be available for obligation or expenditure through a reprogramming of funds that:

(1) creates or initiates a new program, project, or activity;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received from the House and Senate Committees on Appropriations;

(4) proposes to use funds directed for a specific activity for a different purpose, unless prior approval is received from the House and Senate Committees on Appropriations;

(5) augments or reduces existing programs, projects or activities in excess of the amounts contained in subsections 6 through 10, unless prior approval is received from the House and Senate Committees on Appropriations;

(6) INVESTIGATIONS.—For a base level over \$100,000, reprogramming of 25 percent of the base amount up to a limit of \$150,000 per project, study or activity is allowed: *Provided*, That for a base level less than \$100,000, the reprogramming limit is \$25,000: *Provided further*, That up to \$25,000 may be reprogrammed into any continuing study or activity that did not receive an appropriation for existing obligations and concomitant administrative expenses;

(7) CONSTRUCTION.—For a base level over \$2,000,000, reprogramming of 15 percent of the base amount up to a limit of \$3,000,000 per project, study or activity is allowed: *Provided*, That for a base level less than \$2,000,000, the reprogramming limit is \$300,000: *Provided further*, That up to \$3,000,000 may be reprogrammed for settled contractor claims, changed conditions, or real estate deficiency judgments: *Provided further*, That up to \$300,000 may be reprogrammed into any continuing study or activity that did not receive an appropriation for existing obligations and concomitant administrative expenses;

(8) OPERATION AND MAINTENANCE.—Unlimited reprogramming authority is granted in order for the Corps to be able to respond to emergencies: *Provided*, That the Chief of Engineers must notify the House and Senate Committees on Appropriations of these emergency actions as soon thereafter as practicable: *Provided further*, That for a base level over \$1,000,000, reprogramming of 15 percent of the base amount a limit of \$5,000,000 per project, study or activity is allowed: *Provided further*, That for a base level less than \$1,000,000, the reprogramming limit is \$150,000: *Provided further*, That \$150,000 may be reprogrammed into any continuing study or activity that did not receive an appropriation;

(9) MISSISSIPPI RIVER AND TRIBUTARIES.—The same reprogramming guidelines for the Investigations, Construction, and Operation and Maintenance portions of the Mississippi River and Tributaries Account as listed above; and

(10) FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM.—Reprogramming of up to 15 percent of the base of the receiving project is permitted.

(b) CONTINUING AUTHORITIES PROGRAM.—Subsection (a)(1) shall not apply to any project or activity funded under the continuing authorities program.

(c) Not later than 60 days after the date of enactment of this Act, the Corps of Engineers shall submit a report to the House and Senate Committees on Appropriations to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided*, That the report shall include:

(1) A table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) A delineation in the table for each appropriation both by object class and program, project and activity as detailed in the budget appendix for the respective appropriations; and

(3) An identification of items of special congressional interest.

SEC. 102. None of the funds in this Act, or previous Acts, making funds available for Energy and Water Development, shall be used to implement any pending or future competitive sourcing actions under OMB Circular A-76 or High Performing Organizations for the U.S. Army Corps of Engineers.

SEC. 103. Within 90 days of the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

WATER REALLOCATION, LAKE CUMBERLAND,
KENTUCKY

SEC. 104. (a) IN GENERAL.—Subject to subsection (b), none of the funds made available by this Act may be used to carry out any water reallocation project or component under the Wolf Creek Project, Lake Cumberland, Kentucky, authorized under the Act of June 28, 1938 (52 Stat. 1215, ch. 795) and the Act of July 24, 1946 (60 Stat. 636, ch. 595).

(b) EXISTING REALLOCATIONS.—Subsection (a) shall not apply to any water reallocation for Lake Cumberland, Kentucky, that is carried out subject to an agreement or payment schedule in effect on the date of enactment of this Act.

SEC. 105. None of the funds in this Act, or previous Acts, making funds available for Energy and Water Development shall be used to award any continuing contract that commits additional funding from the Inland Waterway Trust Fund unless or until such time that a permanent solution long-term mechanism to enhance revenues in the fund is enacted.

SEC. 106. Section 592(g) of Public Law 106-53 (113 Stat. 380), as amended by section 120 of Public Law 108-137 (117 Stat. 1837) and section 5097 of Public Law 110-114 (121 Stat. 1233), is further amended by striking “\$110,000,000” and inserting “\$200,000,000” in lieu thereof.

SEC. 107. The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota authorized by section 101(a)(28) of the Water Resources Development Act of 1996 (Public Law 104-303; 110 Stat. 3666), is modified to authorize the Secretary to construct the project at an estimated total cost of \$53,500,000, with an estimated Federal cost of \$37,700,000 and an estimated non-Federal cost of \$15,800,000.

SEC. 108. Section 595(h) of Public Law 106-53 (113 Stat. 384), as amended by section 5067 of Public Law 110-114 (121 Stat. 1219), is further amended by—

(1) striking the phrase “\$25,000,000 for each of Montana and New Mexico” and inserting the following language in lieu thereof: “\$75,000,000 for Montana, \$25,000,000 for New Mexico”; and

(2) striking “\$50,000,000” and inserting “\$100,000,000” in lieu thereof.

SEC. 109. The project for flood damage reduction, Des Moines and Raccoon Rivers, Des Moines Iowa, authorized by section 1001(21) of the Water Resources Development Act of 2007 (121 Stat. 1053), is modified to authorize the Secretary to construct the project at a total cost of \$16,500,000 with an estimated Federal cost of \$10,725,000 and an estimated non-Federal cost of \$5,775,000.

SEC. 110. The project for flood damage reduction, Breckenridge, Minnesota, authorized by section 320 of the Water Resources Development Act of 2000 (Public Law 106-541; 114 Stat. 2605), is modified to authorize the Secretary to construct the project at a total cost of \$39,360,000 with an estimated Federal cost of \$25,000,000 and an estimated non-Federal cost of \$14,360,000.

SEC. 111. Section 122 of title I of division D of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7; 117 Stat. 141) is

amended by striking “\$10,000,000” and inserting “\$27,000,000” in lieu thereof.

SEC. 112. The Secretary of the Army is authorized to carry out structural and non-structural projects for storm damage prevention and reduction, coastal erosion, and ice and glacial damage in Alaska, including relocation of affected communities and construction of replacement facilities: *Provided*, That the non-Federal share of any project carried out pursuant to this section shall be no more than 35 percent of the total cost of the project and shall be subject to the ability of the non-Federal interest to pay, as determined in accordance with 33 U.S.C. 2213(m).

SEC. 113. Section 3111(1) of the Water Resources Development Act, 2007 (Public Law 110-114; 121 Stat. 1041) is amended by inserting after the word “before”, the following: “, on and after”.

SEC. 114. The flood control project for West Sacramento, California, authorized by section 101(4), Water Resources Development Act, 1992, Public Law 102-580; Energy and Water Development Appropriations Act, 1999, Public Law 105-245, is modified to authorize the Secretary of Army, acting through the Chief of Engineers, to construct the project at a total cost of \$53,040,000 with an estimated first Federal cost of \$38,355,000 and an estimated non-Federal first cost of \$14,685,000.

(RESCISSION)

SEC. 115. The amount of \$2,100,000 made available in division C, of Public Law 111-8, under the heading “Mississippi River and Tributaries” for site restoration of the St. Johns Bayou-New Madrid Floodway, Missouri, project less any funds needed for contract termination, are hereby rescinded and \$2,100,000 is appropriated under the heading “Mississippi River and Tributaries” for the Mississippi Channel Improvement, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee construction project.

(RESCISSION)

SEC. 116. The amount of \$1,800,000 made available in division C, of Public Law 111-8, under the heading “Construction, General” for site restoration of the St. Johns Bayou-New Madrid Floodway, Missouri, project less any funds needed for contract termination, and are hereby rescinded and \$1,800,000 is appropriated under the heading “Construction, General” for section 206 (Public Law 104-303), Aquatic Ecosystem Restoration, as amended.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$40,300,000, to remain available until expended, of which \$1,500,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission. In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,704,000, to remain available until expended. For fiscal year 2010, the Commission may use an amount not to exceed \$1,500,000 for administrative expenses.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFERS OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including

the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, federally recognized Indian tribes, and others, \$993,125,000, to remain available until expended, of which \$53,240,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$17,936,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601-6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds available for expenditure by the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a nonreimbursable basis.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$35,358,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), and 3405(f) of Public Law 102-575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575: *Provided further*, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

CALIFORNIA BAY-DELTA RESTORATION

(INCLUDING TRANSFERS OF FUNDS)

For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, consistent with plans to be approved by the Secretary of the Interior, \$41,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: *Provided*, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: *Provided further*, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: *Provided further*, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the Office of

the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$61,200,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed seven passenger motor vehicles, which are for replacement only.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. (a) None of the funds provided in title II of this Act for Water and Related Resources, or provided by previous appropriations Acts to the agencies or entities funded in title II of this Act for Water and Related Resources that remain available for obligation or expenditure in fiscal year 2010, shall be available for obligation or expenditure through a reprogramming of funds that—

- (1) initiates or creates a new program, project, or activity;
- (2) eliminates a program, project, or activity;
- (3) increases funds for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate;
- (4) restarts or resumes any program, project or activity for which funds are not provided in this Act, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate;
- (5) transfers funds in excess of the following limits, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate:

(A) 15 percent for any program, project or activity for which \$2,000,000 or more is available at the beginning of the fiscal year; or

(B) \$300,000 for any program, project or activity for which less than \$2,000,000 is available at the beginning of the fiscal year;

(6) transfers more than \$500,000 from either the Facilities Operation, Maintenance, and Rehabilitation category or the Resources Management and Development category to any program, project, or activity in the other category, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate; or

(7) transfers, where necessary to discharge legal obligations of the Bureau of Reclamation, more than \$5,000,000 to provide adequate funds for settled contractor claims, increased contractor earnings due to accelerated rates of operations, and real estate deficiency judgments, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate.

(b) Subsection (a)(5) shall not apply to any transfer of funds within the Facilities Operation, Maintenance, and Rehabilitation category.

(c) For purposes of this section, the term “transfer” means any movement of funds into or out of a program, project, or activity.

(d) The Bureau of Reclamation shall submit reports on a quarterly basis to the Committees on Appropriations of the House of Representatives and the Senate detailing all the funds reprogrammed between programs, projects, activities, or categories of funding. The first quarterly report shall be submitted not later than 60 days after the date of enactment of this Act.

SEC. 202. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the “Cleanup Program-Alternative Repayment Plan” and the “SJVDP-Alternative Repayment Plan” described in the report entitled “Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995”, prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

SEC. 203. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

SEC. 204. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation.

SEC. 205. Section 9 of the Fort Peck Reservation Rural Water System Act of 2000 (Public Law 106-382; 114 Stat. 1457) is amended by striking “over a period of 10 fiscal years” each place it appears in subsections (a)(1) and (b) and inserting “through fiscal year 2015”.

SEC. 206. Section 208(a) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268), is amended—

- (1) in paragraph (1)—
 - (A) in the matter preceding subparagraph (A)—
 - (i) by striking “not more than”;
 - (ii) by inserting “or the National Fish and Wildlife Foundation” after “University of Nevada”; and
 - (iii) by inserting “The Secretary may provide funds to the National Fish and Wildlife Foundation in advance without regard to when expenses are incurred. The funds shall be subject to the provisions of the National Fish and Wildlife Foundation Establishment Act, excluding subsection (a) of section 10 of the Act (16 U.S.C. 3709(a)).” at the end;
 - (B) in subparagraph (A), by striking “, Nevada; and” and inserting “; and”;
 - (C) in subparagraph (B), by striking the period at the end and inserting “; and”; and
 - (D) by adding at the end the following:

“(C) to design and implement conservation and stewardship measures to address impacts from activities carried out—

“(i) under subparagraph (A); and

“(ii) in conjunction with willing landowners.”; and
- (2) in paragraph (2), in the matter preceding subparagraph (A), by striking “the University” and all that follows through

“beneficial to—” and inserting “the University of Nevada or the National Fish and Wildlife Foundation shall make acquisitions that the University or the Foundation determines to be the most beneficial to—”.

SEC. 207. Section 2507(b) of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171) is amended—

- (1) in paragraph (1), by striking “or” at the end;
- (2) in paragraph (2), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:

“(3) for efforts consistent with researching, supporting, and conserving fish, wildlife, plant, and habitat resources in the Walker River Basin.”.

SEC. 208. Of the amounts made available under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171) (as amended by section 2807 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1818)), the Secretary of the Interior, acting through the Commissioner of Reclamation, shall—

(1) provide, in accordance with section 208(a)(1) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268), as amended—

(A) \$66,200,000 to establish the Walker Lake Basin Restoration Program for the primary purpose of restoring and maintaining Walker Lake, a natural desert terminal lake in Nevada, consistent with protection of the ecological health of the Walker River and its riparian and watershed resources.

(B) Funds made available under section (1)(A) shall be used to support efforts to preserve Walker Lake while protecting agricultural, environmental and habitat interests in the basin, and be allocated as follows:

(i) \$25,000,000 for—

(I) the implementation of a three-year water leasing demonstration program in the Walker River Basin to increase Walker Lake inflows;

(II) use in obtaining information regarding the establishment, budget, and scope of a longer-term leasing program;

(ii) \$25,000,000 to further the acquisition of water and related interests from willing sellers authorized by section 208(a)(1)(A) of Public Law 109-103 (119 Stat. 2268), as amended;

(iii) \$1,000,000 for activities related to the exercise of acquired option agreements and implementation of the water leasing demonstration program, including but not limited to, the pursuit of change applications, approvals, and agreements pertaining to the exercise of water rights and leases acquired thereunder;

(iv) \$10,000,000 for associated Walker Lake Basin conservation and stewardship activities, including but not limited to, water conservation and management, watershed planning, land stewardship, habitat restoration, and the establishment of a local, nonprofit entity to hold and exercise water rights acquired by and to achieve the purposes of the Walker Lake Basin Restoration Program; and

(v) \$5,000,000 to the University of Nevada, Reno and the Desert Research Institute

(I) for additional research to supplement the water rights research conducted under section 208(a)(1)(B) of that Act (Public Law 109-103; 119 Stat. 2268) and

(II) to conduct an annual evaluation of the results of the activities carried out under subsections (i) and (ii) for the purposes of maximizing water conveyances to Walker Lake support and inform the above and related acquisition and stewardship initiatives in the Walker Lake Basin; and

(vi) \$200,000 to support alternative crops and alternative agricultural cooperatives

programs in Lyon County, Nevada, that promote significant water conservation in the Walker River Basin.

(C) Funds allocated under section (1)(A) shall be provided to the National Fish and Wildlife Foundation in advance without regard to when expenses are incurred and be subject to the provisions of the National Fish and Wildlife Foundation Establishment Act, excluding subsection (a) of section 10 of the Act (16 U.S.C. 3709(a)).

(2) allocate—

(A) \$2,000,000, acting through a nonprofit conservation organization, acting in consultation with the Truckee Meadows Water Authority, for—

(i)(I) the acquisition of land surrounding Independence Lake; and

(II) protection of the native fishery and water quality of Independence Lake, as determined by the nonprofit conservation organization; and

(ii) with respect to any amounts in excess of the amounts required to carry out clause (i)(I), stewardship purposes, to remain available until expended;

(B) \$5,000,000 to provide grants, to be divided equally, to the State of Nevada, the State of California, the Truckee Meadows Water Authority, the Pyramid Lake Paiute Tribe, and the Federal Watermaster of the Truckee River to implement the Truckee River Settlement Act, Public Law 101-618; and

(C) \$1,500,000, to be divided equally by the City of Fernley, Nevada and the Pyramid Lake Paiute Tribe, for joint planning and development activities for water, wastewater, and sewer facilities.

SEC. 209. Notwithstanding the provisions of section 11(c) of Public Law 89-108, as amended by section 9 of Public Law 99-294, the Commissioner is directed to modify the April 9, 2002, Grant Agreement Between Bureau of Reclamation and North Dakota Natural Resources Trust to provide funding for the Trust to continue its investment program/Agreement No. 02FG601633 to authorize the North Dakota Natural Resources Trust Board of Directors to expend all or any portion of the funding allocation received pursuant to section 11(a)(2)(B) of the Dakota Water Resources Act of 2000 for the purpose of operations of the Natural Resource Trust whether such amounts are principal or received as investment income: *Provided*, That operational expenses that may be funded from the principal allocation shall not exceed 105 percent of the previous fiscal year's operating costs: *Provided further*, That the Commissioner of Reclamation is authorized to include in such modified agreement with the Trust authorized under this section appropriate provisions regarding the repayment of any funds that constitute principal from the Trust Funds.

SEC. 210. Title I of Public Law 108-361 is amended by striking "2010" wherever it appears and inserting "2015" in lieu thereof.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy efficiency and renewable energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$2,233,967,000, to remain available until expended: *Provided*, That, of the amount appropriated in this paragraph,

\$148,075,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Energy Efficiency and Renewable Energy Projects" in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for electricity delivery and energy reliability activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$179,483,000, to remain available until expended: *Provided*, That, within the funding available funding the Secretary shall establish an independent national energy sector cyber security organization to institute research, development and deployment priorities, including policies and protocol to ensure the effective deployment of tested and validated technology and software controls to protect the bulk power electric grid and integration of smart grid technology to enhance the security of the electricity grid: *Provided further*, That within 60 days of enactment, the Secretary shall invite applications from qualified entities for the purpose of forming and governing a national energy sector cyber organization that have the knowledge and capacity to focus cyber security research and development and to identify and disseminate best practices; organize the collection, analysis and dissemination of infrastructure vulnerabilities and threats; work cooperatively with the Department of Energy and other Federal agencies to identify areas where Federal agencies with jurisdiction may best support efforts to enhance security of the bulk power electric grid: *Provided further*, That, of the amount appropriated in this paragraph, \$6,475,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Electricity Delivery and Energy Reliability Projects" in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

NUCLEAR ENERGY

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for nuclear energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed 36 passenger motor vehicles, including one ambulance, all for replacement only, \$761,274,000, to remain available until expended: *Provided*, That, of the amount appropriated in this paragraph, \$2,000,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Nuclear Energy Projects" in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant

or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), \$699,200,000, to remain available until expended: *Provided*, That for all programs funded under Fossil Energy appropriations in this Act or any other Act, the Secretary may vest fee title or other property interests acquired under projects in any entity, including the United States: *Provided further*, That, of the amount appropriated in this paragraph, \$27,300,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Fossil Energy Projects" in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, \$23,627,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), \$259,073,000, to remain available until expended.

NORTHEAST HOME HEATING OIL RESERVE

For necessary expenses for Northeast Home Heating Oil Reserve storage, operation, and management activities pursuant to the Energy Policy and Conservation Act, \$11,300,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, \$110,595,000, to remain available until expended.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$259,829,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, and title X, subtitle A, of the Energy Policy Act of 1992, \$588,322,000, to be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, to remain available until expended.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition,

construction, or expansion, and purchase of not to exceed 50 passenger motor vehicles for replacement only, including one law enforcement vehicle, two ambulances, and three buses, \$4,898,832,000, to remain available until expended: *Provided*, That, of the amount appropriated in this paragraph, \$41,150,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Science Projects" in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended (the "NWPAct"), \$98,400,000, to remain available until expended, and to be derived from the Nuclear Waste Fund: *Provided*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 2.54 percent shall be provided to the Office of the Attorney General of the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the NWPAct: *Provided further*, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the NWPAct, 0.51 percent shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of the NWPAct: *Provided further*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 4.57 percent shall be provided to affected units of local government, as defined in the NWPAct, to conduct appropriate activities and participate in licensing activities under Section 116(c) of the NWPAct: *Provided further*, That of the amounts provided to affected units of local government, 7.5 percent of the funds provided for the affected units of local government shall be made available to affected units of local government in California with the balance made available to affected units of local government in Nevada for distribution as determined by the Nevada affected units of local government: *Provided further*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 0.25 percent shall be provided to the affected Federally-recognized Indian tribes, as defined in the NWPAct, solely for expenditures, other than salaries and expenses of tribal employees, to conduct appropriate activities and participate in licensing activities under section 118(b) of the NWPAct: *Provided further*, That notwithstanding the provisions of chapters 65 and 75 of title 31, United States Code, the Department shall have no monitoring, auditing or other oversight rights or responsibilities over amounts provided to affected units of local government: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Office of the Attorney General by direct payment and to units of local government by direct payment: *Provided further*, That 4.57 percent of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities shall be provided to Nye County, Nevada, as payment equal to taxes under section 116(c)(3) of the NWPAct: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Office of the Attorney General of the State of Nevada, each affected Federally-recognized Indian tribe, and each of the affected units of local government shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the

NWPAct and this Act: *Provided further*, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action, except for normal and recognized executive-legislative communications, on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the NWPAct, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended: *Provided further*, That no funds provided in this Act or any previous Act may be used to pursue repayment or collection of funds provided in any fiscal year to affected units of local government for oversight activities that had been previously approved by the Department of Energy, or to withhold payment of any such funds.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

Such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in prior Acts, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974: *Provided*, That for necessary administrative expenses to carry out this Loan Guarantee program, \$43,000,000 is appropriated, to remain available until expended: *Provided further*, That \$43,000,000 of the fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account to cover administrative expenses and shall remain available until expended, so as to result in a final fiscal year 2010 appropriations from the general fund estimated at not more than \$0.

ADVANCED TECHNOLOGY VEHICLES MANUFACTURING LOAN PROGRAM

For administrative expenses in carrying out the Advanced Technology Vehicles Manufacturing Loan Program, \$20,000,000, to remain available until expended.

DEPARTMENTAL ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)

For salaries and expenses of the Department of Energy necessary for Departmental Administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed \$293,684,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$119,740,000 in fiscal year 2010 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during 2010, and any related appropriated receipt ac-

count balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2010 appropriation from the general fund estimated at not more than \$173,944,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$51,927,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY

ADMINISTRATION

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, the purchase of not to exceed one ambulance; \$6,468,267,000, to remain available until expended.

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed one passenger motor vehicle for replacement only, \$2,136,709,000, to remain available until expended.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$973,133,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses not to exceed \$12,000, \$420,754,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed four ambulances and three passenger motor vehicles for replacement only, \$5,763,856,000, to remain available until expended, of which \$463,000,000 shall be transferred to the "Uranium Enrichment Decontamination and Decommissioning Fund": *Provided*, That, of the amount appropriated in this paragraph, \$4,000,000 shall be used for projects specified in the table that appears

under the heading "Congressionally Directed Defense Environmental Cleanup Projects" in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed 12 passenger motor vehicles for replacement only, \$854,468,000, to remain available until expended: *Provided*, That of the amount appropriated in this paragraph, \$2,000,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Other Defense Activities Projects" in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$98,400,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the Leaburg Fish Sorter, the Okanogan Basin Locally Adapted Steelhead Supplementation Program, and the Crystal Springs Hatchery Facilities, and, in addition, for official reception and representation expenses in an amount not to exceed \$1,500. During fiscal year 2010, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$7,638,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944, up to \$7,638,000 collected by the Southeastern Power Administration from the sale of power and related services shall be credited to this account as discretionary offsetting collections, to remain available until expended for the sole purpose of funding the annual expenses of the Southeastern Power Administration: *Provided further*, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2010 appropriation estimated at not more than \$0: *Provided further*, That, notwithstanding 31 U.S.C. 3302, up to \$70,806,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: *Provided further*, That notwithstanding the provisions of 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944, all funds collected by the Southeastern

Power Administration that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the Southwestern Power Administration, \$44,944,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), up to \$31,868,000 collected by the Southwestern Power Administration from the sale of power and related services shall be credited to this account as discretionary offsetting collections, to remain available until expended, for the sole purpose of funding the annual expenses of the Southwestern Power Administration: *Provided further*, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2010 appropriation estimated at not more than \$13,076,000: *Provided further*, That, notwithstanding 31 U.S.C. 3302, up to \$38,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: *Provided further*, That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944, all funds collected by the Southwestern Power Administration that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500,000; \$256,711,000 to remain available until expended, of which \$245,216,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That notwithstanding 31 U.S.C. 3302, section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), and section 1 of the Interior Department Appropriation Act, 1939 (43 U.S.C. 392a), up to \$147,530,000 collected by the Western Area Power Administration from the sale of power and related services shall be credited to this

account as discretionary offsetting collections, to remain available until expended, for the sole purpose of funding the annual expenses of the Western Area Power Administration: *Provided further*, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2010 appropriation estimated at not more than \$109,181,000, of which \$97,686,000 is derived from the Reclamation Fund: *Provided further*, That of the amount herein appropriated, \$7,584,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That notwithstanding 31 U.S.C. 3302, up to \$349,807,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: *Provided further*, That of the amount herein appropriated, up to \$18,612,000 is provided on a nonreimbursable basis for environmental remediation at the Basic Substation site in Henderson, Nevada: *Provided further*, That notwithstanding 31 U.S.C. 3302, section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), and section 1 of the Interior Department Appropriation Act, 1939 (43 U.S.C. 392a), funds collected by the Western Area Power Administration from the sale of power and related services that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,568,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 2 of the Act of June 18, 1954 (68 Stat. 255) as amended: *Provided*, That notwithstanding the provisions of that Act and of 31 U.S.C. 3302, up to \$2,348,000 collected by the Western Area Power Administration from the sale of power and related services from the Falcon and Amistad Dams shall be credited to this account as discretionary offsetting collections, to remain available until expended for the sole purpose of funding the annual expenses of the hydroelectric facilities of these Dams and associated Western Area Power Administration activities: *Provided further*, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2010 appropriation estimated at not more than \$220,000: *Provided further*, That notwithstanding the provisions of section 2 of the Act of June 18, 1954 (68 Stat. 255) as amended, and 31 U.S.C. 3302, all funds collected by the Western Area Power Administration from the sale of power and related services from the Falcon and Amistad Dams that are applicable to the repayment of the annual expenses of the hydroelectric facilities of these Dams and associated Western Area Power Administration activities in this and subsequent fiscal years shall be credited to this

account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred.

FEDERAL ENERGY REGULATORY COMMISSION
SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses not to exceed \$3,000,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed \$298,000,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2010 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2010 so as to result in a final fiscal year 2010 appropriation from the general fund estimated at not more than \$0.

GENERAL PROVISIONS, DEPARTMENT OF
ENERGY

SEC. 301. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

SEC. 302. None of the funds appropriated by this Act may be used—

(1) to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 4604 of the Atomic Energy Defense Act (50 U.S.C. 2704) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees; or

(2) to provide enhanced severance payments or other benefits for employees of the Department of Energy under such section; or

(3) develop or implement a workforce restructuring plan that covers employees of the Department of Energy.

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 305. When the Department of Energy makes a user facility available to universities or other potential users, or seeks input from universities or other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a univer-

sity or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term "user facility" includes, but is not limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

SEC. 306. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2010 until the enactment of the Intelligence Authorization Act for fiscal year 2010.

SEC. 307. Of the funds made available by the Department of Energy for activities at Government-owned, contractor-operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory directed research and development: *Provided*, That the Secretary may also authorize a specific amount not to exceed 4 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site directed research and development.

SEC. 308. Not to exceed 5 per centum, or \$100,000,000, of any appropriation, whichever is less, made available for Department of Energy activities funded in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and request of such transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 309. (a) Subject to subsection (b), no funds appropriated or otherwise made available by this Act or any other Act may be used to record transactions relating to the increase in borrowing authority or bonds outstanding at any time under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.) referred to in section 401 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 140) under a funding account, sub-account, or fund symbol other than the Bonneville Power Administration Fund Treasury account fund symbol.

(b) Funds appropriated or otherwise made available by this Act or any other Act may be used to ensure, for purposes of meeting any applicable reporting provisions of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 115), that the Bonneville Power Administration uses a fund symbol other than the Bonneville Power Administration Fund Treasury account fund symbol solely to report accrued expenditures of projects attributed by the Administrator of the Bonneville Power Administration to the increased borrowing authority.

(c) This section is effective for fiscal year 2010 and subsequent fiscal years.

SEC. 310. None of the funds made available by this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, Other Transaction Agreement, or to issue a letter of intent totaling in excess of \$1,000,000, or to announce publicly the intention to make such an

award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Energy notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of making such an award or issuing such a letter: *Provided*, That if the Secretary of the Department of Energy determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification and the Committees on Appropriations of the Senate and the House of Representatives shall be notified not later than 5 full business days after such an award is made or letter issued.

SEC. 311. (a) In any fiscal year in which the Secretary of Energy determines that additional funds are needed to reimburse the costs of defined benefit pension plans for contractor employees, the Secretary may transfer not more than 1 percent from each appropriation made available in this and subsequent Energy and Water Development Appropriation Acts to any other appropriation available to the Secretary in the same Act for such reimbursements.

(b) Where the Secretary recovers the costs of defined benefit pension plans for contractor employees through charges for the indirect costs of research and activities at facilities of the Department of Energy, if the indirect costs attributable to defined benefit pension plan costs in a fiscal year are more than charges in fiscal year 2008, the Secretary shall carry out a transfer of funds under this section.

(c) In carrying out a transfer under this section, the Secretary shall use each appropriation made available to the Department in that fiscal year as a source for the transfer, and shall reduce each appropriation by an equal percentage, except that appropriations for which the Secretary determines there exists a need for additional funds for pension plan costs in that fiscal year, as well as appropriations made available for the Power Marketing Administrations, the title XVII loan guarantee program, and the Federal Energy Regulatory Commission, shall not be subject to this requirement.

(d) Each January, the Secretary shall report to the Committees on Appropriations of the House of Representatives and the Senate on the state of defined benefit pension plan liabilities in the Department for the preceding year.

(e) This transfer authority does not apply to supplemental appropriations, and is in addition to any other transfer authority provided in this or any other Act. The authority provided under this section shall expire on September 30, 2015.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the Alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$76,000,000, to remain available until expended: *Provided*, That any congressionally directed spending shall be taken from within that State's allocation in the fiscal year in which it is provided.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy

Act of 1954, as amended by Public Law 100-456, section 1441, \$26,086,000, to remain available until expended.

DELTA REGIONAL AUTHORITY
SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), 382M, and 382N of said Act, \$13,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction, and acquisition of plant and capital equipment as necessary and other expenses, \$11,965,000, to remain available until expended, notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998.

NUCLEAR REGULATORY COMMISSION
SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$25,000), \$1,061,000,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$29,000,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$902,402,000 in fiscal year 2010 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2010 so as to result in a final fiscal year 2010 appropriation estimated at not more than \$158,598,000: *Provided further*, That of the amounts appropriated, \$10,000,000 is provided to support university research and development in areas relevant to their respective organization's mission, and \$5,000,000 is to support a Nuclear Science and Engineering Grant Program that will support multiyear projects that do not align with programmatic missions but are critical to maintaining the discipline of nuclear science and engineering.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$10,860,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$9,774,000 in fiscal year 2010 shall be retained and be available until expended, for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2010 so as to result in a final fiscal year 2010 appropriation estimated at not more than \$1,086,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD
SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, \$3,891,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

OFFICE OF THE FEDERAL COORDINATOR FOR
ALASKA NATURAL GAS TRANSPORTATION
PROJECTS

For necessary expenses for the Office of the Federal Coordinator for Alaska Natural Gas

Transportation Projects pursuant to the Alaska Natural Gas Pipeline Act of 2004, \$4,466,000 until expended: *Provided*, That any fees, charges, or commissions received pursuant to section 802 of Public Law 110-140 in fiscal year 2010 in excess of \$4,683,000 shall not be available for obligation until appropriated in a subsequent Act of Congress.

GENERAL PROVISION

SEC. 401. Section 382B of the Delta Regional Authority Act of 2000 is amended by deleting (c)(1) and inserting in lieu thereof the following: “(1) IN GENERAL—VOTING.—A decision by the Authority shall require the affirmative vote of the Federal cochairperson and a majority of the State members (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.”

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 502. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act or any other appropriation Act.

This Act may be cited as the “Energy and Water Development and Related Agencies Appropriations Act, 2010”.

SA 1814. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ (a) None of the funds appropriated under this Act may be used to carry out—

(1) any project or site-specific location identified in the committee report accompanying this Act unless the project is specifically authorized; or

(2) an unauthorized appropriation.

(b)(1) In this section, the term “unauthorized appropriation” means a “congressionally directed spending item” (as defined in rule XLIV of the Standing Rules of the Senate)—

(A) that is not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

(B) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

(2) For purposes of paragraph (1), an appropriation is not specifically authorized if the appropriation is restricted or directed to, or authorized to be obligated or expended for the benefit of, an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by

name or description, in a manner that is so restricted, directed, or authorized that the appropriation applies only to a single identifiable person, program, project, entity, or jurisdiction, unless the identifiable person, program, project, entity, or jurisdiction to which the restriction, direction, or authorization applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization of appropriation for the person, program, project, entity, or jurisdiction.

SA 1815. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, lines 12 through 18, strike “: *Provided further*,” and all that follows through “accompany this Act”.

SA 1816. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, lines 6 through 11, strike “: *Provided*,” and all that follows through “accompany this Act”.

SA 1817. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, lines 3 through 8, strike “: *Provided further*,” and all that follows through “accompany this Act”.

SA 1818. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, lines 14 through 20, strike “: *Provided*,” and all that follows through “accompany this Act”.

SA 1819. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, lines 12 through 18, strike “: *Provided*,” and all that follows through “accompany this Act”.

SA 1820. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Fort Peck Dry Prairie Rural Water System identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1821. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for algae to ethanol research and evaluation in the State of New Jersey identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1822. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Vermont Energy Investment Corporation in the State of Vermont identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1823. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the New School Green Building in the State of New York identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1824. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010,

and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Alternative Energy School of the Future in the State of Nevada identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1825. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Hydrogen Fuel Dispensing Station in the State of West Virginia identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1826. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Lewis and Clark Rural Water System identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1827. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Hawaii Energy Sustainability Program in the State of Hawaii identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1828. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project relating to the long-term environ-

mental and economic impacts of the development of a coal liquefaction sector in China in the State of West Virginia identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1829. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Pick-Sloan Missouri Basin-Garrison Diversion identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1830. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Hawaii Renewable Energy Development Venture in the State of Hawaii identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1831. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Alaska Climate Center in the State of Alaska identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1832. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Rocky Boys/North Central Montana Rural Water System identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1833. Mr. McCAIN submitted an amendment intended to be proposed to

amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Montana Bio-Energy Center of Excellence in the State of Montana identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1834. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for computing capability in the State of North Dakota identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1835. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for algae biofuels research in the State of Washington identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1836. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Sustainable Energy Research Center in the State of Missouri identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1837. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 15 and 16, insert the following:

SEC. ____ . None of the funds made available by this Act may be used to carry out any project for the Performance Assessment Institute in the State of Nevada identified in the committee report accompanying this Act unless the project is specifically authorized in this Act.

SA 1838. Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, lines 11 and 12, strike "\$1,924,000,000, to remain available until expended" and insert "\$1,926,000,000, to remain available until expended; of which \$2,500,000 shall be made available for the Acequias Irrigation System, New Mexico".

On page 6, lines 9 and 10, strike "\$2,450,000,000, to remain available until expended," and insert "\$2,448,000,000, to remain available until expended, of which \$2,188,000 shall be made available for the Upper Rio Grande Water Operations Model Study, New Mexico";.

SA 1839. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1 . PERMANENT PROTECTION SYSTEM IN NEW ORLEANS, LOUISIANA.

(a) DEFINITIONS.—In this section:

(1) PROJECT.—The term "project" means the project for permanent pumps and canal modifications that is—

(A) authorized by the matter under the heading "GENERAL PROJECTS" in section 204 of the Flood Control Act of 1965 (Public Law 89-298; 79 Stat. 1077); and

(B) modified by—

(i) the matter under the heading "FLOOD CONTROL AND COASTAL EMERGENCIES (INCLUDING RESCISSION OF FUNDS)" under the heading "CORPS OF ENGINEERS—CIVIL" under the heading "DEPARTMENT OF THE ARMY" under the heading "DEPARTMENT OF DEFENSE—CIVIL" of chapter 3 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234; 120 Stat. 454);

(ii) section 7012(a)(2) of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1279); and

(iii) the matter under the heading "FLOOD CONTROL AND COASTAL EMERGENCIES" under the heading "CORPS OF ENGINEERS—CIVIL" under the heading "DEPARTMENT OF THE ARMY" under the heading "DEPARTMENT OF DEFENSE—CIVIL" of chapter 3 of title III of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 122 Stat. 2349).

(2) REPORT.—The term "report" means the report—

(A) entitled "Report to Congress for Public Law 110-252, 17th Street, Orleans Avenue and London Avenue Canals Permanent Protec-

tion System, Hurricane Protection System, New Orleans, Louisiana";

(B) prepared by the Secretary;

(C) dated September 26, 2008; and

(D) revised in December 2008.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

(4) STATE.—The term "State" means the State of Louisiana.

(b) PROJECT MODIFICATION.—The project is further modified to direct the Secretary—

(1) to construct a pump station and optimized diversion from the 2,500-acre area known as "Hoey's Basin" to the Mississippi River to help reduce storm water flow into the 17th Street canal;

(2) to construct an optimized diversion through the Florida Avenue canal for discharging water into the Inner Harbor Navigation Canal;

(3) to construct new, permanent pump stations at or near the lakefront on the 17th Street, Orleans Avenue, and London Avenue canals to provide for future flow capacity;

(4) to deepen, widen within each right-of-way in existence as of the date of enactment of this Act, and line the bottom and side slopes of the 17th Street, Orleans Avenue, and London Avenue canals to allow for a gravity flow of storm water to the pump stations at the lakefront;

(5) to modify or replace bridges that are located in close proximity or adjacent to the 17th Street, Orleans Avenue, and London Avenue canals;

(6) to the extent the Secretary determines the action to be consistent with the safe operation of the project, to remove the levees and floodwalls in existence as of the date of enactment of this Act that line each side of the canals described in paragraph (5) down to the surrounding ground grade;

(7) to decommission or bypass the interior pump stations of the Sewerage and Water Board of New Orleans that are located at each canal described in paragraph (5) to maintain the water surface differential across the existing pumping stations until all systems and features are in place to allow for a fully functional system at a lowered canal water surface elevation; and

(8) to decommission and remove the interim control structures that are located at each canal described in paragraph (5).

(c) IMPLEMENTATION REQUIREMENTS.—

(1) DUTIES OF SECRETARY.—In carrying out subsection (b), the Secretary shall—

(A) provide for any investigation, design, and construction sequencing in a manner consistent with the options identified as "Option 2" and "Option 2a", as described in the report; and

(B) notwithstanding any other provision of law, use continuing contracts and other agreements to the extent that the contracts or other agreements would enable the Secretary to carry out subsection (b) in a shorter period of time than without the use of the contracts or other agreements.

(2) FUNDING.—In carrying out subsection (b), the Secretary shall use amounts made available to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront in the first proviso in—

(A) the matter under the heading "FLOOD CONTROL AND COASTAL EMERGENCIES (INCLUDING RESCISSION OF FUNDS)" under the heading "CORPS OF ENGINEERS—CIVIL" under the heading "DEPARTMENT OF THE ARMY" under the heading "DEPARTMENT OF DEFENSE—CIVIL" of chapter 3 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234; 120 Stat. 454); and

(B) the second undesignated paragraph under the heading "FLOOD CONTROL AND COASTAL EMERGENCIES" under the heading "CORPS OF ENGINEERS—CIVIL" under the heading "DEPARTMENT OF THE ARMY" under the heading "DEPARTMENT OF DEFENSE—CIVIL" of chapter 3 of title III of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 122 Stat. 2349).

(3) NON-FEDERAL SHARE; LIABILITY OF STATE.—As a condition for the Secretary to initiate the conduct of the project, the State shall enter into an agreement with the Secretary under which the State shall agree—

(A) to pay 100 percent of the costs arising from the operation, maintenance, repair, replacement, and rehabilitation of each completed component of the project; and

(B) to hold the United States harmless from any claim or damage that may arise from carrying out the project except any claim or damage that may arise from the negligence of the Federal Government or a contractor of the Federal Government.

SA 1840. Mr. REED submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1 . CHARLESTOWN, RHODE ISLAND.

The Secretary of the Army is directed to use such sums as are necessary from amounts appropriated in this Act or any prior Act for prosecuting projects pursuant to the authority provided by section 107 of the River and Harbor Act of 1960 as amended (33 U.S.C. 577) to initiate and complete construction of a project to remove boulders from the breachway at Charleston Breachway and Inlet, Charlestown, Rhode Island, notwithstanding the cost-benefit ratio of the project.

SA 1841. Mr. VOINOVICH (for himself and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 1813 submitted by Mr. DORGAN to the bill H.R. 3183, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 63, after line 23, add the following:
SEC. 3 . AUTHORITY OF NUCLEAR REGULATORY COMMISSION.

The Nuclear Regulatory Commission may use funds made available for the necessary expenses of the Nuclear Regulatory Commis-

sion for the acquisition and lease of additional office space provided by the General Services Administration in accordance with the fourth and fifth provisos in the matter under the heading "SALARIES AND EXPENSES" under the heading "NUCLEAR REGULATORY COMMISSION" under the heading "INDEPENDENT AGENCIES" of title IV of division C of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 629).

PRIVILEGES OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent that Barry Gaffney, a detailee to the Energy and Water Subcommittee, be granted the privilege of the floor during the consideration of this bill.

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

Mr. HARKIN. I ask unanimous consent that Alec Schierenbeck and Matthew Steffen, of my staff, be granted the privilege of the floor for the duration of today's session.

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

ORDERS FOR TUESDAY, JULY 28, 2009

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 o'clock tomorrow morning, Tuesday, July 28; that following the prayer and the pledge, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; that following morning business, the Senate resume consideration of Calendar No. 104, H.R. 3183, the Energy and Water Appropriations Act; finally, that the Senate recess from 12:30 until 2:15 p.m. to allow for the weekly caucus luncheons.

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

PROGRAM

Mr. WHITEHOUSE. Madam President, I am informed that rollcall votes are possible throughout the day tomorrow as we work through any amendments to the Energy and Water appropriations bill.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. WHITEHOUSE. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:37 p.m., adjourned until Tuesday, July 28, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

FARM CREDIT ADMINISTRATION

KENNETH ALBERT SPEARMAN, OF FLORIDA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR THE REMAINDER OF THE TERM EXPIRING MAY 21, 2010, VICE DALLAS TONSAGER.

KENNETH ALBERT SPEARMAN, OF FLORIDA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 21, 2016. (REAPPOINTMENT)

DEPARTMENT OF HOMELAND SECURITY

ALEXANDER G. GARZA, OF MISSOURI, TO BE ASSISTANT SECRETARY OF HOMELAND SECURITY AND CHIEF MEDICAL OFFICER, DEPARTMENT OF HOMELAND SECURITY, VICE JEFFREY WILLIAM RUNGE.

RICHARD SERINO, OF MASSACHUSETTS, TO BE DEPUTY ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY, VICE HARVEY E. JOHNSON, JR., RESIGNED.

WITHDRAWALS

Executive Message transmitted by the President to the Senate on July 27, 2009 withdrawing from further Senate consideration the following nominations:

ALEXANDER G. GARZA, OF MISSOURI, TO BE ASSISTANT SECRETARY FOR HEALTH AFFAIRS AND CHIEF MEDICAL OFFICER, DEPARTMENT OF HOMELAND SECURITY, VICE JEFFREY WILLIAM RUNGE, WHICH WAS SENT TO THE SENATE ON JULY 7, 2009.

RICHARD SERINO, OF MASSACHUSETTS, TO BE DEPUTY ADMINISTRATOR AND CHIEF OPERATING OFFICER, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY, VICE HARVEY E. JOHNSON, JR., RESIGNED, WHICH WAS SENT TO THE SENATE ON JULY 15, 2009.

KENNETH ALBERT SPEARMAN, OF FLORIDA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 21, 2014, VICE NANCY C. PELLETT, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON JULY 16, 2009.