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Senate

(Legislative day of Wednesday, May 26, 2010)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The PRESIDING OFFICER. The visiting Chaplain today, Chaplain Willliam F. Cuddy, Jr., will lead the Senate in prayer.

The guest Chaplain offered the following prayer:

Let us pray.

Eternal Father, we acknowledge Your presence and seek an outpouring of Your Spirit on our Senators as they deliberate laws and policy that will enable us to be a great nation. O Lord, we ask that You open their hearts to You, strengthen their minds for the work at hand, enkindle within them a deeper desire to build upon the legacies of the Senate, and give them zeal and a breath of wisdom to improve the quality and dignity of life for all. May their labors this day bear fruit, may their families experience Your peace, and may their work accomplish Your will for our Nation and the world communities.

We ask this and all things in Your holy and divine Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 27, 2010.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Madam President, I will yield a few minutes to my friend from Florida to introduce the guest Chaplain.

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

GUEST CHAPLAIN

Mr. LEMIEUX. Madam President, I am honored to welcome Captain William F. Cuddy, as the guest Chaplain for the U.S. Senate for today. Since July of 2006, Captain Cuddy has served as Chaplain of the U.S. Coast Guard.

Coast Guard Chaplains have a long history of assisting service men and their families in their spiritual journey. Since 1929, when Chaplain Roy L. Lewis was ordered to the submarine base at Groton, CT, with primary duties to the base and additional duties to the Coast Guard Academy, religious ministry has been a critical component of supporting the men and women who shoulder the burdens of safeguarding our homeland.

Captain Cuddy proudly continues that tradition by providing religious counsel to our young men and women who are often tested by military life.

What's more, Captain Cuddy's ministerial outreach is an asset to the families of our Coast Guard men and women during spouses' deployments away from home.

A native of Boston, MA, Captain Cuddy graduated from Cathedral High School in June 1967 and enlisted in the U.S. Navy. He served aboard the USS *Essex* homeported in Newport, RI, until 1970, when he left active duty for the Navy Reserve and entered Fitchburg State College. He graduated in 1974 with bachelor of science in education.

Captain Cuddy then entered St. John's Seminary in 1974. During his seminary studies, Captain Cuddy remained active as an aviation structural support technician with a number of Reserve squadrons and was commissioned an ensign in March 1977 in the Chaplain Corps' Theological Student Candidate Program.

After graduating from St. John's Seminary in 1979, he was ordained by Cardinal Humberto Mederios for service in the Archdiocese of Boston and received an appointment in the Reserve Chaplain Corps in 1980 as a lieutenant junior grade.

Captain Cuddy once again reported for active duty in July 1990. While assigned to Mayport, FL, from 1998 to 2001, he provided chaplain support to the Coast Guard units in northern Florida. In this role, he provided spiritual support to the men and women safeguarding our country.

On behalf of the State of Florida and my colleagues here in the Senate, I thank Captain Cuddy for his service to our country and for his prayer today. We welcome him to the U.S. Senate.

RECOGNITION OF THE MAJORITY LEADER

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

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

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SCHEDULE

Mr. REID. Madam President, following any leader remarks, the Senate will resume consideration of H.R. 4899, which is the emergency supplemental appropriations bill. There will be up to 20 minutes for debate prior to a series of votes. In the first series, the Senate will proceed to vote in relation to the following amendments: McCain No. 4214, National Guard; Kyl No. 4228, as modified, dealing with courthouse funding; Cornyn No. 4202, as modified and amended, if amended, dealing with border security.

There will then be up to 15 minutes of debate prior to votes on the following items: Feingold No. 4204, dealing with a report on the war in Afghanistan; Coburn No. 4231, offset including real property; Coburn No. 4232, offset with spending cuts; and there will be cloture on the committee-reported substitute amendment to H.R. 4899, the emergency supplemental appropriations bill.

All votes after the first vote will be 10-minute votes.

VALUING LIFE

Mr. REID. Madam President, a community in Kansas still shakes 1 year after the brazen murder of one of its own. This weekend will mark the first anniversary of Dr. George Tiller's death. He was gunned down in front of his Wichita church the day before the last Memorial Day.

Dr. Tiller was killed at point-blank range at his place of worship in the middle of a Sunday morning, while his wife sang in the church choir just a few yards away.

He was murdered by an unrepentant assassin who took his life in the name of protecting life. It was an indefensible crime and an incomprehensible excuse.

Just as despicable as Dr. Tiller's death was the fact that his murder wasn't an isolated incident. It wasn't even the first time someone tried to kill him. His clinic was bombed in 1985. He was shot twice in 1993. Over the next 16 years, 7 clinic workers would be killed before Dr. Tiller would become the eighth murder victim. More than 6,000 other acts of violence have been launched at clinics and their workers—bombings, arsons, assaults, and other attacks. One of the things they do is go into one of these clinics and throw acid all over and make the building not habitable.

The last doctor killed before Dr. Tiller was a husband and father from Buffalo named Barnett Slepian. He was an OB/GYN, who also helped poor women access safe, legal abortions. Because of that, he was murdered in his home, in his kitchen—standing in his kitchen, he was shot through the window with a high-powered rifle and murdered. I didn't personally know Dr. Slepian, but I knew his niece. She came from Reno, NV, and she once worked in my office. She worked as a legislative assistant and a speechwriter. Her name is Amanda Robb. She is now an accomplished writer living in the Presiding Officer's State of New York. As life is so unpredictable and so unusual, I worked on the speech last night, and to the person helping me, Stephen Krupin, I said, ''We are going to talk about Dr. Slepian, whose niece worked for me. And she is here in Washington today—just out of nowhere. I have a gathering every Thursday morning, and I will be darned, Amanda Robb showed up, which is so unusual. I was so glad to see her. She was a great personality and someone I will always remember having worked for me.

The tragedy of Dr. Tiller's death and of Dr. Slepian's death—and of every atrocity like it—is independent of the issue of abortion. It is not about the legality of abortion or the funding of it. These are emotional debates, and ones on which people of good faith can disagree.

What so shook that Kansas town was rather an act of terrorism. What reverberated out to our borders and coasts from the center of our country was the violation of our founding principle—that we are a nation of laws, not of men.

Everyone in America has the right to disagree with its laws. Everyone has the right to dispute and protest its laws. But no American has a right to disobey the laws.

Not all of us would choose Dr. Tiller's profession or seek his services or agree with his philosophy or that of Dr. Slepian, but it is the responsibility of every American to respect another's right to practice his profession legally.

Those who believe in the sanctity of life cannot be selective. We must value every life—not just those with which we agree.

RECOGNITION OF THE MINORITY LEADER

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

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. McCONNELL. Madam President, later this morning, we will have some important votes related to national security. Passage of the defense portion of the supplemental will fund the surge forces in Afghanistan and our ongoing military efforts in Iraq.

Thanks to the McChrystal strategy, American forces have already brought a lot of pressure on the Taliban in Afghanistan. We need to keep that pressure up if this counterinsurgency strategy is to succeed, and it must.

This is why I encourage all Members to vote against the Feingold amendment, which calls for a plan of withdrawal of the forces from Afghanistan. When it comes to funding our operations in Iraq, we must be committed to providing the assistance and forces necessary to provide security as the Iraqis work to form a new government.

We will also have votes related to the security of our borders. This is clearly a very pressing issue. We should respond with the urgency that the situation demands and the unity that Americans expect on matters of national security.

In these days of economic uncertainty, Americans are watching the Senate very closely. The $13 trillion national debt has concentrated a lot of minds on what we are doing here. Some have tried to defend the extenders bill and the nearly $100 billion it would add to the debt. I think most Americans would say the real emergency here is the $13 trillion debt. Even some Democrats seem to agree with me. That is why we are seeing a quiet revolt over in the House on this bill. We must do something about our debt.

On the oilspill, there appears to be some good news this morning. We hope what we are hearing proves to be true. Americans are eager to hear what the President has to say this afternoon. More important, they are eager to see what the administration plans to do. But for now, we are all hoping that the efforts to stop this leak are sustained.

I yield the floor.

RESERVATION OF LEADER TIME

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

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume conversation H.R. 4899, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4899) making emergency supplemental appropriations for emergency disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Reid amendment No. 4174, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

Sessions/McCaskill amendment No. 4173, to establish 3-year discretionary spending caps.

Wyden/Grassley amendment No. 4183, to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter.

Feingold amendment No. 4204, to require a plan for safe, orderly, and expeditious redeployment of the United States Armed Forces from Afghanistan.

McCain amendment No. 4214, to provide for the National Guard support to secure the southern land border of the United States.

Cornyn modified amendment No. 4202, to make appropriations to improve border security, with an offset from unobligated appropriations under division A of Public Law 111–5.

Lautenberg modified amendment No. 4175, to provide that parties responsible for the Deepwater Horizon oilspill in the Gulf of Mexico shall reimburse the general fund of the Treasury for costs incurred in responding to that oil spill.

Cardin amendment No. 4191, to prohibit the use of funds for leasing activities in certain areas of the Outer Continental Shelf.

Kyl/McCain modified amendment No. 4228 (to amendment No. 4202), to appropriate $200,000,000 to increase resources for the Department of Justice and the Judiciary to address illegal crossings of the Southwest border, with an offset.

Coburn/McCain amendment No. 4232, to pay for the costs of supplemental spending by reducing Congress's own budget and disposing of unneeded Federal property and uncommitted Federal funds.

Coburn/McCain modified amendment No. 4231, to pay for the costs of supplemental spending by reducing waste, inefficiency, and unnecessary spending within the Federal Government.

Landrieu/Cochran amendment No. 4179, to allow the Administrator of the Small Business Administration to create or save jobs by providing interest relief on certain outstanding disaster loans relating to damage caused by the 2005 gulf coast hurricanes or the 2008 gulf coast hurricanes.

Landrieu amendment No. 4180, to defer payments of principal and interest on disaster loans relating to the Deepwater Horizon oilspill.

Landrieu modified amendment No. 4184, to require the Secretary of the Army to maximize the placement of dredged material available from maintenance dredging of existing navigation channels to mitigate the impacts of the Deepwater Horizon oilspill in the Gulf of Mexico at full Federal expense.

Landrieu amendment No. 4213, to provide authority to the Secretary of the Interior to immediately fund projects under the Coastal Impact Assistance Program on an emergency basis.

Landrieu amendment No. 4182, to require the Secretary of the Army to use certain funds for the construction of authorized restoration projects in the Louisiana coastal area ecosystem restoration program.

Landrieu amendment No. 4234, to establish a program, and to make available funds, to provide technical assistance grants for use by organizations in assisting individuals and businesses affected by the Deepwater Horizon oilspill in the Gulf of Mexico.

Ensign/Reid amendment No. 4229, to prohibit the transfer of C–130 aircraft from the National Guard to a unit of the Air Force in another State.

Ensign/Reid modified amendment No. 4230, to establish limitations on the transfer of C–130H aircraft from the National Guard to a unit of the Air Force in another State.

Isakson/Chambliss amendment No. 4221, to include the 2009 flooding in the Atlanta area as a disaster for which certain disaster relief is available.

Collins amendment No. 4253, to prohibit the imposition of fines and liability under certain final rules of the Environmental Protection Agency.

Menendez amendment No. 4289 (to amendment No. 4174), to require oil polluters to pay the full cost of oilspills.

AMENDMENTS NOS. 4214, 4288, AND 4202

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 20 minutes of debate relating to the border security amendment.

The Senator from Arizona is recognized.

Mr. KYL. Madam President, I am going to take a couple minutes to describe the second-degree amendment I have. I appreciate the fact that there was an offer on the other side to simply accept my amendment. I appreciate that, but because it is attached to a first-degree amendment, I am not sure about the prospects for that. I thought it important that all of us have an opportunity to be recorded.

This amendment is simple. It provides $200 million for extending the Operation Streamline Program to another border sector, in addition to the Yuma sector and the Del Rio, TX, sector, where it is already in operation—extend it to the Tucson sector. This could substantially reduce illegal immigration, because about half of all of illegal immigration goes through the Tucson sector.

Operation Streamline is simple. It involves the Department of Justice accepting those who cross the border illegally into the court system and putting them in jail for about 2 weeks, and sometimes 30 days if there is an incident of repeated crossing or attempted crossing. What we have found is that there is a great deterrent effect. If people who are apprehended know they are going to jail for a couple weeks, they tend not to cross in that area anymore.

In fact, in the Yuma sector where this has been in effect now for several years, illegal immigration has been cut by 94 percent, from 118,500 apprehensions 5 years ago to about 5,000 this year. It is simply a fact that when people know they are going to go to jail or the prospects are very high they are going to go to jail, whether they are criminals crossing the border—that is about 17 percent of the people—or the remainder who simply want to come here to work, they realize going to jail is going to obstruct their plans. They cannot make money and send it back to Mexico, El Salvador, or wherever their family might be if they are trying to cross for work purposes. What we found in the Yuma sector is they simply do not cross it anymore. They have now moved farther to the east in the Tucson sector.

This amendment of mine simply provides $200 million, fully offset, of emergency funding to implement Operation Streamline—a combination Department of Justice and Department of Homeland Security program—to ensure this deterrent can be in place in the Tucson sector just as it is in Del Rio, TX, and Yuma, AZ.

I urge my colleagues to support the amendment. As I said, the money is offset. This is definitely an emergency. It will substantially help us to secure the border without the necessity of building permanent structures such as fencing or anything of that sort. It is a good amendment. I urge my colleagues to support it.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Madam President, I also wish to speak to the amendments that have been offered by Senator MCCAIN, Senator KYL, myself, and Senator HUTCHISON with regard to border security.

One thing we cannot lose sight of is that the failure of the Federal Government to deal seriously with border security leaves all of the border States basically on their own. We have heard a number of people who criticized the State of Arizona for dealing with this issue the best they can. But what are they supposed to do if the Federal Government does not step up and deal with its responsibility, which is a Federal responsibility?

We talked about the violence, particularly relating to the cartels, with 23,000 Mexicans killed since 2006 in these drug wars. Right across from El Paso, 1,000 people have been killed in Ciudad Juarez, which is literally across the river, like Virginia is from Washington, DC. We have seen the spillover effect in American citizens being killed and living in fear on this side of the border.

We cannot forget there is also an important war on terror issue here as well, something we have not talked about very much but something I was reminded of yesterday when the Department of Homeland Security issued an alert to police and sheriff's deputies in Houston asking them to keep their eyes open for a Somali man believed to be in Mexico preparing to make a crossing into Texas. The Department of Homeland Security in this announcement believes this man has a tie to an organization affiliated with al-Qaida. I say to my colleagues, maybe this individual is not coming to Houston to stay in Houston. Maybe he is coming to the State of one of my colleagues or their town where they live. It demonstrates again why this porous border represents a national security problem for the entire country.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a list of other-than-Mexican illegal immigrants.

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

(See exhibit 1.)

Mr. CORNYN. Madam President, I have in my hand a list of the countries from which individuals who have been detained at the border have originated. In 2009, 2 people from Afghanistan were apprehended on the southern border; 10 from Iran, a state sponsor of international terrorism, as we know; 10 have come from Iraq; 19 from Pakistan; 12 from Somalia; and 3 from Yemen. Out of a total of 45,000 other-than-Mexican citizen immigrants apprehended at the border, these are just some examples of why our porous border represents a national security threat in the global war on terror.

There is also another reminder in the news recently where two F–16s had been dispatched to intercept an ultralight aircraft flying across the border into Arizona. Some 200 ultralight aircraft have been detected in 2009 alone. These ultralight aircraft do not require

a license to fly. They typically fly so low to avoid any radar detection. It is estimated by the Department of Homeland Security that some 600 of them have flown into the United States, primarily transporting huge loads of illegal drugs, of course, being sold on America's streets to our children, among others.

From these two facts—the fact that we have other than Mexican citizens who simply want to come to work using the porous border, both Mexico's porous southern border and our southern porous border, and to come into the United States for unknown purposes, perhaps to do us harm—it is obvious our current border security measures are inadequate to deal with this new phenomenon of ultralight aircraft transporting drugs into the United States and perhaps transporting back to Mexico the bulk cash that is generated from these drug sales, further funding illegal drug activity and the cartels that are causing so much mayhem on our southern border.

The problem we have with our broken immigration system is that it is simply not perceived as credible by the American people. Until we deal with this broken border, we are not going to be able to deal with other aspects of our broken immigration system, and I would support an effort to do that. But it seems to be that our colleagues on the other side too often seem to view border security as leverage or a bargaining chip they are not willing to give up unless they get something else for it. But it is, in fact, the Federal Government's responsibility to deal with this situation, as the President himself has acknowledged in his recent announcement to send 1,200 additional National Guard to the border. I will tell you that it is a welcome gesture, but it is no more than that—a gesture. These 1,200 National Guard on a 2,000-mile border—you can imagine how many gaps in the effort of border security will still be left. That is why I support the McCain amendment and the Kyl amendment to provide additional National Guard on a temporary basis.

Our National Guard is already severely stressed because of the conflicts in Afghanistan and Iraq, our all-volunteer military forces. What we need to do is provide a permanent solution, not a temporary solution, and that means more Border Patrol, more ATF, DEA——

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. CORNYN. All the boots on the ground that we need to make our border security efforts credible.

I yield the floor.

EXHIBIT 1

SOUTHWEST BORDER OTM APPREHENSIONS BY CITIZENSHIP—FY2009 AND FY2010TD THROUGH APRIL 30

[Data includes Deportable Aliens Only/Data Source: EID (unofficial) as of 5/24/10]

Citizenship	FY2009	FY2010TD
AFGHANISTAN	2	

SOUTHWEST BORDER OTM APPREHENSIONS BY CITIZENSHIP—FY2009 AND FY2010TD THROUGH APRIL 30—Continued

[Data includes Deportable Aliens Only/Data Source: EID (unofficial) as of 5/24/10]

Citizenship	FY2009	FY2010TD
ALBANIA	20	8
ALGERIA	4	1
ANTIGUA-BARBUDA	1	
ARGENTINA	45	24
ARMENIA	6	3
ARUBA	1	
AUSTRALIA	2	
AUSTRIA		1
AZERBAIJAN	1	
BAHAMAS	1	
BANGLADESH	41	38
BARBADOS	2	
BELARUS	1	
BELIZE	59	26
BOLIVIA	26	33
BOSNIA-HERZEGOVINA	1	
BRAZIL	575	356
BULGARIA	5	2
BURKINA FASO	1	1
BURMA	1	3
CAMBODIA	4	4
CAMEROON	9	8
CANADA	10	16
CHILE	35	12
CHINA, PEOPLES REPUBLIC OF	1,358	729
COLOMBIA	235	176
CONGO	3	1
COSTA RICA	144	88
CUBA	105	48
CZECH REPUBLIC	3	4
DOMINICAN REPUBLIC	487	631
ECUADOR	1,169	785
EGYPT	1	2
EL SALVADOR	11,178	6,746
EQUATORIAL GUINEA	1	
ERITREA	171	85
ESTONIA	1	
ETHIOPIA	80	28
FRANCE	1	4
GAMBIA	3	
GEORGIA	22	3
GERMANY	9	3
GHANA	14	5
GREECE	1	
GUADELOUPE	1	
GUATEMALA	14,118	7,474
GUINEA	1	
GUYANA		1
HAITI	78	49
HONDURAS	13,348	6,322
HONG KONG	1	
HUNGARY	5	2
INDIA	99	324
INDONESIA	10	3
IRAN	10	7
IRAQ	10	3
IRELAND	3	
ISRAEL	15	13
ITALY	7	3
IVORY COAST		1
JAMAICA	42	36
JAPAN	5	2
JORDAN	6	1
KAZAKHSTAN	1	
KENYA	9	2
KOREA	9	
KOSOVO	8	4
KUWAIT	2	1
KYRGYZSTAN	2	1
LAOS	7	3
LATVIA	2	
LEBANON	6	4
LIBERIA	2	
LITHUANIA	1	1
MACEDONIA	10	
MALAWI		1
MALAYSIA		1
MALI		1
MARSHALL ISLANDS	2	
MOLDOVA	4	4
MONGOLIA	4	3
MOROCCO	1	1
NEPAL	48	69
NETHERLANDS	1	3
NEW ZEALAND	2	3
NICARAGUA	842	392
NIGER		1
NIGERIA	14	8
NORWAY	1	
PAKISTAN	19	9
PANAMA	21	10
PARAGUAY	11	4
PERU	242	121
PHILIPPINES	32	22
POLAND	11	4
PORTUGAL	1	
PUERTO RICO	2	
QATAR		1
ROMANIA	64	227
RUSSIA	14	6
RWANDA	1	
SAMOA	1	
SAUDI ARABIA	1	1
SENEGAL	1	
SERBIA AND MONTENEGRO	5	4
SIERRA LEONE	1	1

SOUTHWEST BORDER OTM APPREHENSIONS BY CITIZENSHIP—FY2009 AND FY2010TD THROUGH APRIL 30—Continued

[Data includes Deportable Aliens Only/Data Source: EID (unofficial) as of 5/24/10]

Citizenship	FY2009	FY2010TD
SINGAPORE	1	
SLOVAKIA	1	2
SLOVENIA		1
SOMALIA	12	2
SOUTH AFRICA	6	4
SOUTH KOREA	28	20
SPAIN	8	2
SRI LANKA	44	68
ST. LUCIA		2
ST. VINCENT-GRENADINES	1	
SUDAN	6	1
SWEDEN	1	1
SYRIA		2
TAIWAN	4	1
TANZANIA	1	
THAILAND	9	5
TOGO	1	
TONGA	2	1
TRINIDAD AND TOBAGO	5	3
TUNISIA		1
TURKEY	10	11
TURKS AND CAICOS ISLANDS	1	
UKRAINE	4	4
UNITED ARAB EMIRATES	1	1
UNITED KINGDOM	18	12
UNKNOWN	9	13
URUGUAY	24	12
UZBEKISTAN	6	3
VENEZUELA	32	20
VIETNAM	20	5
YEMEN	3	
YUGOSLAVIA	15	3
ZIMBABWE	3	2
SBO Total OTM Apprehensions	45,279	25,230

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Madam President, how much time do I have to discuss my amendment?

The ACTING PRESIDENT pro tempore. Five minutes.

Mr. McCAIN. I thank my colleague from Texas and other Senators from border States who are deeply concerned about the issue of broken borders and the drug cartels and human smuggling that has put the lives and security of our American citizens in some danger.

A fact: The kidnapping capital of the world is Mexico City. The city that ranks second in kidnapping to Mexico City is Phoenix, AZ, which is a long way from the border. It happens to be a place where drop houses exist where people are held for ransom, where unspeakable cruelties are inflicted upon those who are being smuggled, where they have become a distribution center for drugs coming up through the so-called central corridor. We are badly in need of assistance.

Yesterday, May 26, 2010, 12:20 p.m.:

Sierra Vista, Ariz.—Acting on a tip, Sierra Vista police went to a drop house and recovered close to 2,000 pounds of marijuana Tuesday.

Police spokesman Sgt. Lawrence Boutte said officers found a total of 83 bails weighing 2,054 pounds.

The marijuana has an estimated street value of $821,000.

Police arrested a 21-year-old Mexican citizen. Officers said the man was expected to be charged with possession of marijuana for sale. It's not known if the man was in the U.S. illegally.

Boutte said drug smugglers use stash houses to store drugs coming from Mexico before transporting them elsewhere.

''Elsewhere'' means different parts of the country.

By the way, there is an argument that this amendment may be unconstitutional. I remind my colleagues, the

Constitution—article I, section 8, clause 15—preserves to the Congress the power to call ''forth the Militia to execute the Laws of the Union,'' including the immigration laws. This is an independent constitutional power that does not rest on any power exercised by the President as the Chief Executive in article II.

A recent example of Congress's power to task the executive branch in this area, even outside calling forth the militia, is the Secure Fence Act of 2006 in which the Congress tasked the Secretary of Homeland Security to secure the border. Even though Congress was not relying on its article I, section 8, clause 15 power, the Secure Fence Act of 2006 was and is constitutional.

The President announced he was sending 1,200 National Guard to the southwest border. This is one-fifth of what is needed. If the Congress will not heed the call of the Governors of Arizona and Texas, who have asked the President to send troops to the border, the Congress should do so now.

During Operation Jump Start, the National Guard was deployed to the southwest border and provided logistical support, conducted surveillance, and built and repaired critical infrastructure. Until DHS has the technology and infrastructure in place to fully secure the border, at least 6,000 National Guard must be deployed to assist the Border Patrol in stopping the illegal immigration, drug smugglers, and human traffickers flowing across the border.

The borders are broken. There has been improvement. We have shown in San Diego, in Texas, even in the Yuma sector of Arizona that we can secure our border, but we need manpower, surveillance, and fences. We can do it. We have an obligation to our citizens to secure our border and allow them to lead lives where they do not live in fear of home invasions, of property being destroyed, where well-armed, well-equipped drug smugglers, as well as human smugglers, operate with—if not with impunity, certainly with great latitude.

There will be the statement made that the border is more secure. I am sure the Senator from New York will say that. The fact is the border is not secure. It is more secure; it is not secure. The citizens in the southern part of my State do not have a secure environment in which to live and raise their children.

Every enforcement agent on the border with whom I have talked says we need additional National Guard and we need it now. I am sure that in New York City and other major cities in America there is a secure environment, frankly, thanks to Mayor Giuliani. This is not the case in parts of my State, including Phoenix, AZ, having the dubious distinction of being No. 2 as far as the kidnapping capital of the world is concerned.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. MCCAIN. I appreciate the involvement of Senators from other parts of the United States of America. I invite them to come to the border and talk with my citizens. I invite them to talk with the Border Patrol agents who are overwhelmed in their task in trying to stop the flow of goods and human beings across our border. I hope they will weigh in on behalf of the human rights of the people who are being terribly abused, kept in drop houses, held for ransom, and subjected to unspeakable atrocities. It is another human rights argument for getting our border secure. We can get it more secure by sending these National Guard troops to the border, as former Governor and now Secretary of Homeland Security called for in 2006.

I urge a ''yea'' vote on this amendment.

I yield the floor.

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

• Mr. BYRD. Madam President, there are those in the Congress who like to just talk about the need to secure our borders. I have actually done something about securing the borders. In 2005, I authored an amendment with broad, bipartisan support, which initiated a comprehensive effort to secure our borders. Since I became chairman of the Senate Appropriations Homeland Security Subcommittee in 2007, I have continued that effort. As a result, there are more Border Patrol agents, more technology, more border infrastructure, more detention capacity, and more investigative capacity dedicated to securing our borders than ever before.

This investment has produced results. The numbers of aliens being deported, especially aliens convicted of crimes, has grown significantly. The era of catch and release has ended. The recession and increased enforcement has resulted in a significant reduction in the number of illegal aliens coming into this country. Violence on the United States side of the border is down.

There is more to be accomplished, particularly as drug violence in Mexico grows, but as a result of investments made over the last 5 years, the Department of Homeland Security has received significant assets to address this problem.

Deportations have greatly increased from 211,098 in 2003 to between 230,000 and 390,000 annually for the past 3 years. Homeland Security is on track to remove 400,000 aliens this year, including 150,000 convicted criminal aliens.

The Department of Homeland Security, DHS, has more ''boots on the ground'' at the border than ever before. Today, the Border Patrol is better staffed than at any time in its 85-year history, having nearly doubled the number of agents from approximately 10,000 in 2004 to more than 20,000 today.

In 2006, DHS opened the first Border Enforcement Security Task Force, BEST, in Laredo, TX. BESTs are law enforcement task forces that combine Federal, State, local, and international personnel to tackle border crime. The BEST model has proven extremely effective not only at interdicting illegal activity but also at building criminal cases that lead to high-value prosecutions. There currently are 17 BESTs, including 3 in Arizona, 1 in Mexico City, and the President's fiscal year 2011 budget requests funds to open 3 more. Over the past year, DHS doubled the number of agents working on the BESTs in the southwest border region.

Immigration and Customs Enforcement, ICE, Office of Investigations criminal arrests have increased from 14,077 in fiscal year 2002 to 32,512 in fiscal year 2009. Customs and Border Protection Office of Field Operations criminal arrests—those apprehended at the ports of entry—have increased from 15,820 in fiscal year 2002 to 38,964 in fiscal year 2009.

This year, DHS will finish constructing nearly all of the 652 miles of border fencing along the southwest border the Border Patrol has determined is required. As of March 2010, all 298.5 miles of vehicle fencing have been completed, and only 5.7 miles of pedestrian fencing remain to be constructed. This comes on top of $260 million the American Recovery and Reinvestment Act provided for border security technology and improved tactical communications equipment.

According to the Border Patrol, the number of miles of the southwest border under effective control by the Border Patrol has increased from 241 miles in October 2005 to 742 in October 2009.

DHS Secretary Napolitano announced last month that DHS is redeploying $50 million of Recovery Act funding originally allocated for SBInet to other tested, commercially available security technology along the southwest Border, including mobile surveillance, thermal imaging devices, ultralight detection, backscatter units, mobile radios, cameras and laptops for pursuit vehicles, and remote video surveillance system enhancements.

The level of detention beds for illegal aliens funded by Congress has steadily increased over the past 5 years from only 18,500 beds in fiscal year 2005 to 33,400 beds today. Since fiscal year 2009, Congress has mandated that ICE maintain 33,400 detention beds. And the average length of stay has dropped from 40.4 days in fiscal year 2004 to 31.2 days in fiscal year 2009.

The number of illegal aliens detained has increased from 256,842 in fiscal year 2006 to 383,524 in fiscal year 2009. The total number of illegal aliens removed has nearly doubled since fiscal year 2003 from 211,098 to 405,662 in fiscal year 2009.

The number of fugitive operations teams has been increased to 104 this fiscal year from 51 in fiscal year 2007. On April 30, 2010, ICE announced it had apprehended 596 criminal aliens in a targeted operation in the southeastern

United States. On April 15, 2010, ICE arrested 47 individuals charged with operating shuttle bus services in southern Arizona which brought aliens who had recently entered the country illegally from border towns to Phoenix for further transport to the interior of the United States.

Since March 2009, Customs and Border Protection—CBP—and ICE have seized $85.7 million in illicit cash along the southwest border, an increase of 14 percent over the same period during the previous year. This includes more than $29.7 million in illicit cash seized heading southbound into Mexico—a 39-percent increase over the same period during the previous year.

During the same period, CPB and ICE together seized 1,425 illegal firearms, which represents a 29 percent rise over the same period in the previous year. At the same time, CBP and ICE seized 1.65 million kilograms of drugs along the southwest border, an overall increase of 15 percent.

The Department of Homeland Security estimates that in Arizona, the number of illegal immigrants in that State declined to 460,000 last year from a high of 550,000 and continues to drop.

Contrary to popular perception, suggestions of spillover violence from Mexico have been exaggerated. While violence and drug trafficking organization-related murders are up in Juarez, Mexico, El Paso, TX—directly across the border—was ranked the second safest major city in the United States by CQ Press in November 2009. The assistant police chief of Nogales, AZ, recently stated, ''We have not, thank God, witnessed any spillover violence from Mexico. You can look at the crime stats. I think Nogales, Arizona, is one of the safest places to live in all of America.'' FBI Uniform Crime Reports and statistics provided by police agencies show that the crime rates in Nogales, Douglas, Yuma, and other Arizona border towns have remained essentially flat for the past decade. A May 2, 2010, article from www.azcentral.com actually was headlined ''Violence is not up on Arizona border despite Mexican drug war.'' The Border Patrol has reported that the March 2010 murder of Arizona rancher Robert Krentz is the only American murdered by a suspected illegal immigrant in at least a decade within the agency's Tucson sector, the busiest smuggling route among the Border Patrol's nine coverage regions along the U.S.-Mexican border.

There is still more to be accomplished. I am pleased that this week the President announced his intention to deploy up to 1,200 National Guardsmen on the southwest border. However, I oppose the amendments to add over $2 billion for border security, given that the amendments are offset with significant cuts in stimulus funding that will continue to create jobs in America. I will continue my efforts to further secure our borders.●

Mr. FEINGOLD. Madam President, we need to improve our border security, and I have worked to do just that by supporting efforts to crack down on Mexican drug cartels and to increase the number of Federal agents and Homeland Security personnel on the ground in the Southwest border region. Unfortunately, the three amendments the Senate considered today that were intended to enhance border security would have redirected funds from the American Recovery and Reinvestment Act. It doesn't make sense to cut funding from a program CBO says boosted employment by as many as 2.8 million jobs in the first quarter of 2010, while raising GDP somewhere between 1.7 and 4.2 percent. We face serious fiscal challenges, and we need to cut wasteful spending, but the American people should not have to choose between saving jobs and protecting our border.

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

Mr. SCHUMER. Madam President, I rise in opposition to the three amendments that have been spoken about—the McCain amendment, the Cornyn amendment, and the McCain-Kyl amendment. I will get into some detail in a few minutes about the opposition, but it relates to three points.

First, President Obama has a tough, smart, targeted $500 million package that will greatly increase resources at the border, and we need it. Crime has increased, as my friend from Arizona has said. We need it. So, No. 1, there is a very good plan in place.

No. 2, this is a huge amount of money—$2.5 billion—that my colleagues, who talk about fiscal moderation, are requesting, and much of it will not go to securing the border. It is sort of throwing an enormous amount of money at the problem that is not as carefully thought out, not as targeted, and not as effective, quite frankly, as President Obama's program.

No. 3, it takes the money out of the stimulus bill. Well, there is a border problem in Texas and Arizona that affects all of us, and we want to solve it. The President and we are working to do that. But we have a jobs problem in this country, too, and this is the worst kind of robbing Peter to pay Paul. The stimulus money will go to creating jobs. If we ask the people in, say, Michigan or Ohio or Rhode Island or New York what is the No. 1 issue? Jobs. This money is being taken away from job creation and used, as I say, in a not effective, overmagnified way. It is too much money to stop what is going on at the border.

So let me elaborate. First, as I mentioned, President Obama is sending a package to the Congress next week. It includes 1,200 National Guard, funding programs for DEA, ATF, FBI, and ICE that are proven to work. The three amendments offered by the Senators from Texas and Arizona are a grab bag of enormous spending. If all of the $2.5 billion they are proposing just to go to the border would double the amount, it wouldn't be well spent. The President's money is thoughtful and targeted and has been in the works for a while. Let me give some examples.

The amendment calls for $300 million for funding for any State or local enforcement agency so long as it is within 100 miles of the U.S.-Mexican border. Almost none of this money will be used for border enforcement. Border enforcement is needed at the actual border.

Second, the Cornyn amendment also calls for $100 million for construction of new land ports of entry. But the problem at our ports of entry is not lack of funding from the taxpayers, it is that we need an adequate fee system to make sure the users of those ports of entry pay for things rather than taking the money away from job creation in our States.

Third, the amendment Senator KYL has offered as a second-degree amendment would spend about $200 million on a program known as Operation Streamline. In reality, this program requires taxpayers to foot the bill at the cost of more than $120 per day, per inmate, to house border crossers and give them three free meals a day, free health care, medicines, and surgeries for all manner of illnesses, et cetera.

Couldn't we better spend this $200 million and pass a comprehensive immigration reform program which is so much needed? By the way, it is my view that while we have to tighten up the border, people are coming for jobs. The only way we will stop the flow of illegal immigration into this country is to tell those who hire them they no longer can. The only way to do that is our Secure Social Security Card that Senator GRAHAM and I have put forward so that papers can't be forged and illegal immigrants can't be hired. Comprehensive reform does that; these measures don't.

We have heard talk about needing to bolster the border for years. It clearly hasn't stopped the problem, as the Senator from Arizona admits. We need a comprehensive approach that will include border security but is not only border security. If my colleagues would join us in that approach, we could have a tough, fair-minded proposal that would do the job.

Let me make some other points against the amendments while I have more time. The McCain amendment seeks $250 million for 6,000 National Guard to be sent to the border. They can't use that number of National Guard so quickly. The 1,200 that President Obama has requested is right.

When President Bush sent 6,000 National Guard to the border in 2006, there were 10,000 Border Patrol agents in the entire force. That means a total of 16,000 after the Guard was deployed. Now, we already have more than 20,000 Border Patrol agents—double the number of Border Patrol agents. Those and the 1,200 National Guard will do the job. We cannot just throw money at this problem and take it away from job creation. We have to be focused and smart. The President does that.

I urge my colleagues to defeat this amendment and join us in supporting a smart program that will do the job and, furthermore, join us in supporting comprehensive immigration reform, which is the only real way to stop the flow of illegal immigration across the border.

Madam President, I make a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

The ACTING PRESIDENT pro tempore. A motion to waive the applicable provisions of the Budget Act and budget resolutions is considered made.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from North Carolina (Mrs. HAGAN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 46, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—51

Alexander	Crapo	McCain
Barrasso	DeMint	McCaskill
Baucus	Ensign	McConnell
Bayh	Enzi	Murkowski
Bennet	Feinstein	Nelson (NE)
Bennett	Graham	Nelson (FL)
Bond	Grassley	Pryor
Boxer	Gregg	Risch
Brown (MA)	Hatch	Roberts
Brownback	Hutchison	Sessions
Bunning	Inhofe	Shelby
Burr	Isakson	Snowe
Coburn	Johanns	Tester
Cochran	Kyl	Thune
Collins	LeMieux	Vitter
Corker	Lincoln	Webb
Cornyn	Lugar	Wicker

NAYS—46

Akaka	Harkin	Reed
Begich	Inouye	Reid
Bingaman	Johnson	Rockefeller
Brown (OH)	Kaufman	Sanders
Burris	Kerry	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Dodd	Levin	Voinovich
Dorgan	Lieberman	Warner
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Franken	Mikulski	
Gillibrand	Murray	

NOT VOTING—3

Byrd	Chambliss	Hagan

The ACTING PRESIDENT pro tempore. The yeas are 51, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. Pursuant to the previous order, the amendment is withdrawn.

AMENDMENT NO. 4228

There will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4228 offered by the Senator from Arizona, Mr. KYL. Who yields time?

Mr. KYL. Madam President, this amendment is fully offset. It is $200 million. It simply provides the funding for the Department of Justice and the Department of Homeland Security to extend a program that has worked very well in two sections of the border to a third section.

It is called Operation Streamline. It permits the Department of Justice to try cases, put people in jail, rather than catch and release where they are simply put on a bus and returned to the border.

Everybody wants to secure the border. This is a program that has had a 94-percent success rate, a 94-percent reduction in apprehensions in the Yuma border sector and almost that much in the Del Rio sector.

So if we can extend that to the sector where half of the illegal immigration in the country comes across, I think we can substantially reduce illegal immigration. Then, for everyone who wants to pursue other legislation, I think there will be a better state of mind in which to do that.

So I urge my colleagues to support this $200 million fully offset amendment.

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

The Senator from New York.

Mr. SCHUMER. Madam President, I rise against the second-degree amendment by Senator KYL. It would actually take $200 million that is not going to secure the border any. It will incarcerate illegal immigrants. It will pay for their food, their health care, their recreation time, their reading material, for long periods of time.

If we want to secure the border, which we do, we have to be smart about this. We cannot just keep doing the same thing again and again. Furthermore, it takes the money out of the stimulus, which is jobs. So we are doing something that is ineffective, we are doing something that has not worked in the past, and now we are taking away jobs from the other 48 States.

That does not make any sense. So I would urge that this amendment be defeated. I would urge we start doing what is needed and what is smart to stop the flow of illegal immigration. We all know what we have to do, and that is a comprehensive proposal. This will not work and takes money way from jobs in the other 48 States. I urge its defeat.

I raise a point of order on the pending amendment pursuant to section 403 of S. Con. Res. 13, the concurrent resolution on the budget for fiscal year 2010.

The ACTING PRESIDENT pro tempore. The motion to waive the applicable provisions of the Budget Act and the budget resolution is considered made.

Mr. KYL. Madam President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second. There appears to be a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 44, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—54

Alexander	Ensign	McCain
Barrasso	Enzi	McCaskill
Bayh	Feinstein	McConnell
Begich	Graham	Merkley
Bennett	Grassley	Murkowski
Bond	Gregg	Nelson (NE)
Boxer	Hatch	Pryor
Brown (MA)	Hutchison	Risch
Brownback	Inhofe	Roberts
Bunning	Isakson	Sessions
Burr	Johanns	Shelby
Coburn	Klobuchar	Snowe
Cochran	Kyl	Thune
Collins	Landrieu	Vitter
Corker	LeMieux	Voinovich
Cornyn	Lieberman	Webb
Crapo	Lincoln	Wicker
DeMint	Lugar	Wyden

NAYS—44

Akaka	Franken	Nelson (FL)
Baucus	Gillibrand	Reed
Bennet	Hagan	Reid
Bingaman	Harkin	Rockefeller
Brown (OH)	Inouye	Sanders
Burris	Johnson	Schumer
Cantwell	Kaufman	Shaheen
Cardin	Kerry	Specter
Carper	Kohl	Stabenow
Casey	Lautenberg	Tester
Conrad	Leahy	Udall (CO)
Dodd	Levin	Udall (NM)
Dorgan	Menendez	Warner
Durbin	Mikulski	Whitehouse
Feingold	Murray	

NOT VOTING—2

Byrd	Chambliss

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 54, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. Pursuant to previous order, the amendment is withdrawn.

AMENDMENT NO. 4202, AS FURTHER MODIFIED

There will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4202 offered by the Senator from Texas, Mr. CORNYN.

The amendment, as further modified, is as follows:

At the appropriate place, insert the following:

SEC. ____. BORDER SECURITY ENHANCEMENTS.

(a) ADDITIONAL AMOUNT FOR COUNTERDRUG ENFORCEMENT.—For an additional amount for ''Salaries and Expenses'' of the Drug Enforcement Administration, $30,440,000, of which—

(1) $15,640,000 shall be available for 180 intelligence analysts and technical support personnel;

(2) $10,800,000 shall be available for equipment and operational costs of Special Investigative Units to target Mexican cartels; and

(3) $4,000,000 shall be available for equipment and technology for investigators on the Southwest border.

(b) FIREARMS TRAFFICKING ENFORCEMENT.—For an additional amount for ''Salaries and Expenses'' of the Bureau of Alcohol, Tobacco, Firearms and Explosives, $72,000,000, of which—

(1) $68,000,000 shall be available for 281 special agents, investigators, and officers along the Southwest border; and

(2) $4,000,000 shall be available for equipment and technology necessary to support border enforcement and investigations.

(c) NATIONAL GUARD COUNTERDRUG ACTIVITIES.—For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'' for high priority National Guard Counterdrug Programs in Southwest border states, $44,700,000.

(d) HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.—For an additional amount for Federal Drug Control Programs, ''High Intensity Drug Trafficking Areas Program'' for Southwest border states, $140,000,000.

(e) LAND PORTS OF ENTRY.—For an additional amount to be deposited in the Federal Buildings Fund, for construction, infrastructure improvements and expansion at high-volume land ports of entry located on the Southwest border, $100,000,000.

(f) BORDER ENFORCEMENT PERSONNEL.—For an additional amount for ''Salaries and Expenses'' of U.S. Customs and Border Protection, $334,000,000, of which—

(1) $100,000,000 shall be available for 500 U.S. Customs and Border Protection officers at Southwest land ports of entry for northbound and southbound inspections;

(2) $180,000,000 shall be available for equipment and technology to support border enforcement, surveillance, and investigations;

(3) $24,000,000 shall be available for 120 pilots, vessel commanders, and support staff for Air and Marine Operations; and

(4) $30,000,000 shall be available for additional unmanned aircraft systems pilots and support staff.

(g) UNMANNED AIRCRAFT SYSTEMS AND HELICOPTERS.—For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'' of U.S. Customs and Border Protection, $169,400,000, of which—

(1) $120,000,000 shall be available for the procurement, operations, and maintenance of at least 6 unmanned aircraft systems; and

(2) $49,400,000 shall be available for helicopters.

(h) IMMIGRATION ENFORCEMENT PERSONNEL.—For an additional amount for ''Salaries and Expenses'' of U.S. Immigration and Customs Enforcement, $795,000,000, of which—

(1) $175,000,000 shall be available for 500 investigator positions;

(2) $75,000,000 shall be available for 400 intelligence analyst positions;

(3) $125,000,000 shall be available for 500 detention and deportation positions;

(4) $151,000,000 shall be available for 3,300 detention beds;

(5) $180,000,000 shall be available for equipment and technology to support border enforcement; and

(6) $89,000,000 shall be available for expansion of interior repatriation programs.

(i) STATE AND LOCAL GRANTS.—For an additional amount for ''State and Local Programs'' administered by the Federal Emergency Management Agency, $300,000,000, which shall be used to establish a border grant program that provides financial assistance—

(1) to State and local law enforcement agencies or entities operating within 100 miles of the Southwest border; and

(2) for additional detectives, criminal investigators, law enforcement personnel, equipment, salaries, and technology in counties in the Southwest border region.

(j) EMERGENCY DESIGNATION.—Each amount in this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 403(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(k) OFFSETTING RESCISSION.—On the date of the enactment of this Act, the unobligated balance of each amount appropriated or made available under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), other than under titles III, VI, and X of such division, is hereby rescinded pro rata such that the aggregate amount of such rescissions equals $2,250,000,000.

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

Mr. CORNYN. Madam President, yesterday the Department of Homeland Security told local law enforcement to keep their eyes peeled for a Somali man believed to be in Mexico for a period in order to make an illegal crossing into Texas. DHS believes this man has ties to an organization affiliated with al-Qaida. Maybe he will not come to Houston. Maybe he will go to some other city in this great country of ours. We simply don't know whether this individual or the 45,000 other-than-Mexican citizens who have immigrated illegally across our border represent a national security threat.

If we look at the countries they come from—Pakistan, Iran, a state sponsor of terrorism, Somalia, Yemen—it could mean something very bad will happen as a result of our dereliction of duty to secure the border. It is unfair to criticize States for trying to protect themselves when the Federal Government will not do the job instead as it should.

I urge colleagues to support this fully paid-for amendment to help beef up border security. The point of order that will be raised is simply an effort to deny the fact that we are in a state of emergency and we need to act now to secure the border.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from New York.

Mr. SCHUMER. Madam President, I rise to oppose this $2.2 billion spending amendment. It puts money in just about every program, needed or not. Then it takes that money out of the stimulus, the Recovery Act, taking it away from jobs. We must secure the border, absolutely. The President's plan is smart and focused. But for all of the voices on both sides of the aisle who have talked about jobs and all of the voices who have talked about fiscal moderation, to throw caution to the wind, to put $2.2 billion into programs whether they are needed or not makes no sense at all.

We must stop illegal immigration as it comes across the border. This will not do it. My colleagues know it, and I know it. This is what is called a symbolic amendment to show where one stands in many ways. It is $2.2 billion. We can find amendments that will do the job, that cost a lot less, and that will not take away the jobs we want to create and preserve.

This amendment, in my judgment, is the least responsible of the three to, again, take every program and say: More money, more money, more money, without a plan on how to spend it. It makes no sense. I urge its defeat.

Madam President, I raise a point of order against this amendment pursuant to section 403 of S. Con. Res. 13, the concurrent resolution on the budget for fiscal year 2010.

The ACTING PRESIDENT pro tempore. The motion to waive the applicable provisions of the Budget Act and the budget resolution is considered made.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from New Hampshire (Mrs. SHAHEEN) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mrs. SHAHEEN) would vote ''no.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 43, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—54

Alexander	Ensign	McCain
Barrasso	Enzi	McCaskill
Baucus	Feinstein	McConnell
Bayh	Graham	Murkowski
Bennett	Grassley	Nelson (NE)
Bond	Gregg	Pryor
Boxer	Hatch	Risch
Brown (MA)	Hutchison	Roberts
Brownback	Inhofe	Sessions
Bunning	Isakson	Shelby
Burr	Johanns	Snowe
Coburn	Klobuchar	Tester
Cochran	Kohl	Thune
Collins	Kyl	Udall (CO)
Corker	LeMieux	Vitter
Cornyn	Lieberman	Voinovich
Crapo	Lincoln	Webb
DeMint	Lugar	Wicker

NAYS—43

Akaka	Dorgan	Lautenberg
Begich	Durbin	Leahy
Bennet	Feingold	Levin
Bingaman	Franken	Menendez
Brown (OH)	Gillibrand	Merkley
Burris	Hagan	Mikulski
Cantwell	Harkin	Murray
Cardin	Inouye	Nelson (FL)
Carper	Johnson	Reed
Casey	Kaufman	Reid
Conrad	Kerry	Rockefeller
Dodd	Landrieu	Sanders

Schumer	Udall (NM)	Wyden
Specter	Warner	
Stabenow	Whitehouse	

NOT VOTING—3

Byrd	Chambliss	Shaheen

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 54, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Pursuant to the previous order, the amendment is withdrawn.

AMENDMENT NO. 4204

There will now be 15 minutes of debate equally divided among the Senator from Wisconsin, Mr. FEINGOLD, the Senator from Oklahoma, Mr. COBURN, and the Senator from Hawaii, Mr. INOUYE.

Who yields time?

The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, my amendment is cosponsored by Senators BOXER, DURBIN, MERKLEY, SHERROD BROWN, SANDERS, UDALL of New Mexico, and HARKIN, and would require the President to provide a flexible, nonbinding timetable for the responsible drawdown of U.S. troops from Afghanistan. It does not set a specific date for the withdrawal of such troops. It does not require the President to actually redeploy troops. It does not place any restrictions on funding.

The President has already indicated his surge strategy in Afghanistan is time limited and that he will begin redeploying troops in July 2011. All we are asking in this amendment is that the President provide further details on how long this redeployment is expected to take.

Our brave servicemembers and the American taxpayers deserve to know what is being asked of them as they risk their lives and spend their money to continue this war.

My amendment is not about whether we support the President or the troops. All of us support the troops, and I hope we all wish the President success in Afghanistan. Nor is it about whether we agree with the President's strategy. I, for one, happen to have serious doubts about the administration's approach. But in light of our deficit and domestic needs and in light of rising casualty rates in Afghanistan and in light of the growing al-Qaida threat around the world, an expensive, troop-intensive, nation-building campaign doesn't add up for me. We should be focusing on Pakistan, Yemen, Somalia, and other terrorist safe havens.

Frankly, I am disappointed we are about to pass a bill providing tens of billions of dollars to keep this war going with so little public debate about whether this approach even makes any sense. But no matter how we feel about the President or his approach in Afghanistan, I hope we can agree on the need for an exit strategy as we approach the 9-year anniversary of a war that is showing no signs of winding down. That is all my amendment would require—a nonbinding plan to bring this war eventually to a close.

We have lost 1,000 servicemembers in this war. We have spent $300 billion. I hope my colleagues will agree that the American people deserve an answer to the question: How much longer?

I reserve the remainder of my time, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, I ask unanimous consent to be yielded 3 minutes.

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

Mr. LEVIN. Madam President, I oppose the Feingold amendment. Section 1019 of the Feingold amendment specifically requires the President, by December 31, 2010, to submit a timetable for the completion of redeployment of our troops out of Afghanistan.

The message our military presence in Afghanistan is not open-ended was delivered by President Obama at West Point last December when he set the date of July 2011 to begin a reduction of U.S. forces in Afghanistan. It was an important message of reassurance to the American people, and it was an important message for the Afghan leaders to hear: that while we intend to help Afghanistan succeed in its battle with the Taliban, our troop presence is not open-ended, and they must build up their own army and their police force to take responsibility for their own security.

If we adopt the Feingold amendment, we will be sending a very different message to the government and to the people of Afghanistan. It would reinforce the fear if we adopt this amendment—an already deep-seated fear in Afghanistan—that the United States will abandon the region. That is a message we can ill-afford to send regarding the future stability of Afghanistan, and it is a particularly unwise message to send while our forces are still deploying to Afghanistan and while the Taliban is doing everything it can to convince the Afghan people that U.S., NATO, and Afghan forces are unable to protect them from the violence and the intimidation that is their hallmark.

The President's decision to set the beginning point to begin the reduction of our forces in Afghanistan in July of 2011 was a wise decision. It was supported by our senior civilian and military leaders. They supported the decision, provided that the pace and the location of the reductions would be determined by the conditions on the ground at the time in Afghanistan.

The Feingold amendment is totally different. It requires the setting of a timetable for completion of redeployment of our troops from Afghanistan, and it requires that timetable to be set by this December. It is an unwise move, and I hope we do not adopt it.

I yield the floor.

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

The ACTING PRESIDENT pro tempore. The Senator has 2½ minutes remaining.

Mr. FEINGOLD. I thank the Chair. I appreciate the comments of the Senator from Michigan, but I feel very strongly that my amendment has to be properly characterized. This is not a specific timetable. It merely asks the President to give us a vision of a timetable of when he intends for this to be over.

The Senator from Michigan tries to reassure us that the President has announced a start date for us to get out of Afghanistan. Well, that doesn't work because how do we think the people of that area of the world will be reassured if we are going to only start to withdraw the troops in 2011? You take one troop out, that starts it. That is not a vision of when we intend to complete it.

The Senator suggests that somehow this sends the wrong message in the region. Well, actually, the wrong message is that we intend to be there forever. We don't intend to be there forever. But you know what. After 9 years, people start wondering—9 years; 9 years with no vision of when we might depart. In fact, I think the absolute worst message in the region is an open-ended commitment. The worst thing we can do is not give some sense to the people of that region and to the American people and to our troops that there is some end to this thing. All we ask for in this amendment is some vision from the President about when he thinks we might complete this task.

So when this amendment is properly characterized, it is actually a way to help us make sure the Taliban and al-Qaida and others do not win the hearts and minds of the Afghan people because they need to be reassured that we intend to make sure their country comes back to them and that it will not be occupied indefinitely.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, I yield myself 10 seconds to read the amendment:

> Not later than December 31, 2010, the President shall submit to Congress a report, together with a timetable for the completion of that redeployment.

Completion of that redeployment, obviously, from Afghanistan. That is a ''shall;'' it is a report; it is a completion of the redeployment.

I yield the floor.

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

The ACTING PRESIDENT pro tempore. No time.

Mr. FEINGOLD. I ask unanimous consent for 10 seconds to respond to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. The Senator has 1 minute.

Mr. FEINGOLD. I thank the Chair. I thought I had a little more.

Madam President, the Senator is trying to read the amendment in a way that is simply not accurate.

The amendment simply asks the President to provide his vision of a

timetable by which he would intend to withdraw the troops. It is entirely nonbinding. Any suggestion that this is binding in any way on the President or the U.S. Government is completely false and a mischaracterization of the amendment. It is not binding. In fact, it allows the President specifically to identify variables that would cause him on his own to change the timetable. So how anyone can say this is a binding timetable in any way, shape, or form is beyond me.

It is merely a request that the President give us his vision of when he might withdraw from Afghanistan. It is the only fair way to characterize this amendment.

Mr. REID. Madam President, President Obama has articulated a sound strategy for surging our force in Afghanistan, a well-defined mission to enable them to succeed, and a clear plan to begin to bring those troops home starting next July. His plan honors the service of the 100 Nevadans in Afghanistan today and those of every American fighting terrorists abroad to keep us safer at home.

I have always believed that our commitment in Afghanistan should not be open-ended, which is why I continue to support the President's plan. We have begun to reverse the Taliban's momentum in Afghanistan and weakened al-Qaeda's operations, safe havens and leadership in the region. Our troops will continue to defeat those terrorist networks and others like it and we will continue to press the Afghan government to end corruption and take responsibility for governing the country. But, as the President's plan makes clear, these troops have a clear task in place: to reverse the Taliban's momentum and to begin returning home next July.

In light of the President's strategy and the recent progress, now is not the time to change course.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Madam President, I yield myself 2 minutes from Senator LEVIN's time or Senator INOUYE's time.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. REED. Madam President, this legislation clearly calls for a report to be submitted by the President of the United States to establish a timetable, and I think the suggestion that will not have incredible consequences in the real world is somewhat naive.

If the President of the United States is forced to give Congress a timetable stating dates, even if those dates have some variables attached to them, that sets in motion a train of events that is anything but a simple statement of vision. That statement of vision was given by the President at West Point. In fact, he was criticized for specifically indicating that there would be a point at which American forces begin the withdrawal, but he did that. I think anyone questioning the President's not only willingness to do this, but understanding the need to redeploy our forces, should look at today's headlines in the Washington Post where the Vice President has, once again, reiterated that we are coming out of Iraq; that the timetables the President talked about, the vision he talked about, all of those things he is following through on, and he will do the same thing in Afghanistan.

In Afghanistan, the President's strategy is clear: to provide military resources to reseize the momentum; to provide the opportunity to build civilian capacity; and starting, as the Senator from Wisconsin indicated, at a fixed date will begin a drawdown and will begin changing our mission from combat operations to more counterterrorism operations, more training of Afghani forces.

Frankly, what I think the President—and I will presume to speak at this moment, at last in my view—sees in the future is a significant drawdown of our military presence while we build up our civilian presence. That civilian presence might include some trainers, police trainers. It might include a lot of folks. Indeed, this vision is tied directly to the concern we all have. There are active al-Qaida cells in Pakistan, in Afghanistan, in Yemen, and one of the advantages of a presence in Afghanistan is effectively cooperating with and encouraging the Pakistanis.

I urge rejection of the amendment.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. FEINGOLD. Madam President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

Mr. COCHRAN. Madam President, all time is yielded back on this side.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 18, nays 80, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—18

Baucus	Feingold	Sanders
Boxer	Gillibrand	Schumer
Brown (OH)	Harkin	Specter
Cantwell	Leahy	Tester
Dorgan	Merkley	Udall (NM)
Durbin	Murray	Wyden

NAYS—80

Akaka	Bond	Casey
Alexander	Brown (MA)	Coburn
Barrasso	Brownback	Cochran
Bayh	Bunning	Collins
Begich	Burr	Conrad
Bennet	Burris	Corker
Bennett	Cardin	Cornyn
Bingaman	Carper	Crapo
DeMint	Klobuchar	Reed
Dodd	Kohl	Reid
Ensign	Kyl	Risch
Enzi	Landrieu	Roberts
Feinstein	Lautenberg	Rockefeller
Franken	LeMieux	Sessions
Graham	Levin	Shaheen
Grassley	Lieberman	Shelby
Gregg	Lincoln	Snowe
Hagan	Lugar	Stabenow
Hatch	McCain	Thune
Hutchison	McCaskill	Udall (CO)
Inhofe	McConnell	Vitter
Inouye	Menendez	Voinovich
Isakson	Mikulski	Warner
Johanns	Murkowski	Webb
Johnson	Nelson (NE)	Whitehouse
Kaufman	Nelson (FL)	Wicker
Kerry	Pryor	

NOT VOTING—2

Byrd Chambliss

The amendment (No. 4204) was rejected.

Mr. INOUYE. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4231

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4321, as modified, offered by the Senator from Oklahoma.

The Senator from Hawaii.

Mr. INOUYE. Madam President, the Senator from Oklahoma feels we have had enough debate, so we will not debate this further.

I move to table amendment No. 4231, as modified.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—53

Akaka	Feinstein	Murray
Baucus	Franken	Nelson (FL)
Begich	Gillibrand	Pryor
Bennet	Hagan	Reed
Bingaman	Harkin	Reid
Boxer	Inouye	Rockefeller
Brown (OH)	Johnson	Sanders
Burris	Kaufman	Schumer
Cantwell	Kerry	Shaheen
Cardin	Klobuchar	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Warner
Dodd	Lieberman	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feingold	Mikulski	

NAYS—45

Alexander	Ensign	McCain
Barrasso	Enzi	McCaskill
Bayh	Graham	McConnell
Bennett	Grassley	Murkowski
Bond	Gregg	Nelson (NE)
Brown (MA)	Hatch	Risch
Brownback	Hutchison	Roberts
Bunning	Inhofe	Sessions
Burr	Isakson	Shelby
Coburn	Johanns	Snowe
Cochran	Kohl	Tester
Corker	Kyl	Thune
Cornyn	LeMieux	Vitter
Crapo	Lincoln	Voinovich
DeMint	Lugar	Wicker

NOT VOTING—2

Byrd	Chambliss

The motion was agreed to.

AMENDMENT NO. 4232

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4232 offered by the Senator from Oklahoma.

The Senator from Hawaii.

Mr. INOUYE. Madam President, I have been advised by the Senator from Oklahoma that we have had enough debate. Therefore, I move to table amendment No. 4232 and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from West Virginia (Mr. BYRD) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

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

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—50

Baucus	Gillibrand	Nelson (FL)
Bennet	Hagan	Pryor
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Brown (OH)	Johnson	Rockefeller
Burris	Kaufman	Sanders
Cantwell	Kerry	Schumer
Cardin	Kohl	Shaheen
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Conrad	Leahy	Udall (CO)
Dodd	Levin	Udall (NM)
Dorgan	Lieberman	Voinovich
Durbin	Menendez	Webb
Feingold	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murray	

NAYS—47

Alexander	Coburn	Grassley
Barrasso	Cochran	Gregg
Bayh	Collins	Hatch
Begich	Corker	Hutchison
Bennett	Cornyn	Inhofe
Bond	Crapo	Isakson
Brown (MA)	DeMint	Johanns
Brownback	Ensign	Klobuchar
Bunning	Enzi	Kyl
Burr	Graham	LeMieux
Lincoln	Nelson (NE)	Tester
Lugar	Risch	Thune
McCain	Roberts	Vitter
McCaskill	Sessions	Warner
McConnell	Shelby	Wicker
Murkowski	Snowe	

NOT VOTING—3

Akaka	Byrd	Chambliss

The motion was agreed to.

Mrs. MURRAY. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on the motion to invoke cloture on the committee-reported substitute amendment.

If all time is yielded back, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee-reported substitute amendment to H.R. 4899, an act making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010.

Harry Reid, Richard J. Durbin, John D. Rockefeller, IV, Patty Murray, Debbie Stabenow, Benjamin L. Cardin, Sherrod Brown, Kirsten E. Gillibrand, Mark Begich, Robert P. Casey, Jr., Jack Reed, Patrick J. Leahy, Carl Levin, Amy Klobuchar, Kay R. Hagan, Roland W. Burris, Charles E. Schumer.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the committee-reported substitute amendment to H.R. 4899, the Supplemental Appropriations Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: The Senator from Georgia (Mr. CHAMBLISS).

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

The yeas and nays resulted—yeas 69, nays 29, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—69

Akaka	Boxer	Collins
Alexander	Brown (MA)	Conrad
Baucus	Brown (OH)	Dodd
Bayh	Burris	Dorgan
Begich	Cantwell	Durbin
Bennet	Cardin	Feinstein
Bennett	Carper	Franken
Bingaman	Casey	Gillibrand
Bond	Cochran	Hagan
Harkin	Lugar	Sanders
Inouye	McCaskill	Schumer
Johanns	McConnell	Shaheen
Johnson	Menendez	Snowe
Kaufman	Merkley	Specter
Kerry	Mikulski	Stabenow
Klobuchar	Murkowski	Tester
Kohl	Murray	Udall (CO)
Landrieu	Nelson (NE)	Udall (NM)
Lautenberg	Nelson (FL)	Vitter
Leahy	Pryor	Warner
Levin	Reed	Webb
Lieberman	Reid	Whitehouse
Lincoln	Rockefeller	Wyden

NAYS—29

Barrasso	Enzi	LeMieux
Brownback	Feingold	McCain
Bunning	Graham	Risch
Burr	Grassley	Roberts
Coburn	Gregg	Sessions
Corker	Hatch	Shelby
Cornyn	Hutchison	Thune
Crapo	Inhofe	Voinovich
DeMint	Isakson	Wicker
Ensign	Kyl	

NOT VOTING—2

Byrd	Chambliss

The PRESIDING OFFICER. The yeas are 69, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Illinois.

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

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

SUMMER JOBS

Mr. BURRIS. I thank the Chair.

Madam President, this past Monday evening, as dusk fell on my hometown of Chicago, a handful of young people took to the streets with violent intentions.

By the time the sun came up on Tuesday, no fewer than seven people had been shot, in a series of unrelated incidents.

This wave of violent crime continued into Tuesday afternoon, when three more Chicagoans were shot and killed in broad daylight.

These incidents came right on the heels of another shocking murder. Last week, a police officer and Iraq War veteran named Thomas Wortham IV was shot to death only a few blocks from my home.

These events do not occur in a vacuum. They are part of a clear and consistent pattern, a pandemic of gun violence that holds communities in a vice grip. Every year, with the advent of the long, hot summer, gang activity spikes. The line between good and bad neighborhoods evaporates. In essence, our streets become a war zone. This is not a passing concern; it is an emergency. This kind of violence should be shocking. It should spark outrage and indignation. Yet too many of us turn a blind eye. We are paralyzed by the destructive political process and numb to the consequences of our failure to take action.

This problem can't simply be passed on to someone else. This violence is happening in our cities and towns, where we live and where we work, where we send our children to school. It is happening in our backyards. So it

is up to us to raise the alarm. It is our responsibility to stem this rising tide and take back our communities, our homes, our schools, and our places of worship. We have seen that this is a pattern. We have witnessed the terrible outcomes and measured the tragic human cost. Now it is time to take action.

Certainly, we can make progress by increasing gun control and making it more difficult for weapons to fall into the hands of criminals. This effort must be a part of any comprehensive solution, and it is an issue I have fought for throughout my career. But the reality is, a debate about gun control will quickly turn into a pitched partisan battle. It will consume time and political will, and in the end, we may not get very far.

I believe we need to take a more practical, more immediate approach. It is time to give our young people an alternative to destructive behavior so they can spend their summers working to get ahead instead of getting involved in criminal activities. Today, more than half of Black men between the ages of 16 and 19 are unemployed. This number is growing rapidly. In fact, the New York Times predicts that this summer will be one of the bleakest on record. So if we would like to cut down on violent crime, this is exactly where we need to start.

It is no accident that last year's landmark American Recovery and Reinvestment Act included a major summer jobs component. It created more than 300,000 summer jobs for youth across the country, including some 17,000 in Illinois alone.

This year, we need to do even more. That is why I am proud to cosponsor S. 2923, the Youth Jobs Act of 2010, introduced by the distinguished Senator from Washington, Mrs. MURRAY. This legislation would build on the success of the Recovery Act, setting aside $1.5 billion for youth employment opportunities through the Workforce Investment Act. It would infuse money directly into the local economy and give young people the chance to gain paid work experience, what Senator REID spoke about the other day, the gentleman who set up a work opportunity and found out that the youth don't even have the work experience or they don't even know how to work. We have to get them some paid work experience. This will keep them off the streets in the short term and give them better employment options down the road. It would create half a million summer jobs from coast to coast and put a serious dent in the youth unemployment rate. It will spur young people to invest in their future and help foster a better community.

I urge my colleagues to pass this bill without delay. We can do this right now. It will cut down on violent crime and have a real effect on people's lives across America. There is no reason to wait another day or another moment. That is why I am so frustrated by the obstructionism that has afflicted this legislation for the past 6 months.

It is time to make a commitment to the next generation, give them the opportunity to start down the right path because if we don't, then every summer, when the school year ends and children seek new ways to occupy their time, more and more of them will find fellowship with the criminal element. This cycle of violence will continue.

I urge colleagues to pass the Youth Jobs Act before we adjourn for the Memorial Day recess. Let's provide our young people with the opportunity to turn away from violence. Let's give them a chance to build a constructive future. Let's take back our communities. Let's do it now. Let's do it today.

RECESS

Mr. BURRIS. I ask unanimous consent that the Senate stand in recess until 2 p.m. and that the postcloture time continue to run during the recess period.

There being no objection, the Senate, at 12:51 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. BURRIS).

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010—Continued

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I have sought recognition to discuss the urgent need for comprehensive immigration reform in the United States.

Earlier today, the Senate considered a number of proposals for border security, and there has been extensive media attention to an administration proposal to dispatch substantial numbers of the National Guard for border security.

The Senate and the House of Representatives wrestled with this issue in 2006. Each House produced a bill. At that time, I chaired the Judiciary Committee and managed the bill in committee and on the floor. The Senate bill, known as the McCain-Kennedy bill, provided for comprehensive immigration reform.

The House passed a bill which dealt only with Border Patrol and employer verification. For reasons which need not be commented upon now, there was no conference and that bill languished.

In the following year, Senator REID, the majority leader, asked Senator Kennedy and me to lead an informal group to try to structure a comprehensive immigration reform, with the decision not to run it through committee, and that effort was not successful.

As a result of the failure of Congress to act, we have seen many States and municipalities enact legislation to try to deal with this issue, in the absence of what Congress has a duty to do and should have been doing. Most recently, the Arizona law has produced enormous controversy.

The Arizona law provides that a failure to carry immigration documents would be a crime and give police broad power to detain anyone suspected of being in the country illegally. The essential provisions invite racial profiling, which is highly questionable on constitutional grounds. Litigation is now pending to have that act—to declare it as being unconstitutional on its face.

When Congress failed to legislate in 2006 and the informal group designated by Majority Leader REID was unsuccessful in coming up with a bill, I introduced a draft bill on July 30, 2007, as reported in the CONGRESSIONAL RECORD at S. 10231, which dealt with an effort to remove the fugitive status from undocumented immigrants. It was my thought at the time if we did not get into the complex issues which had proven so troublesome in 2007 and earlier in 2006, that we might be able to make some substantial progress moving forward for comprehensive immigration reform.

My thought at that time was to remove the fugitive status but not to provide for a path to citizenship. I made that suggestion even though my preference was with the Senate bill enacted the year before which did provide a path to citizenship. Even that path to citizenship was going to be long delayed. It would take at least 8 years, it was estimated, to clear up the backlog of pending applications for citizenship, and another 5 years to deal with the 12 million undocumented immigrants, so that there was not a whole lot of practical difference in eliminating the path to citizenship. That could always be taken up at a later time.

But if the fugitive status was eliminated, that would bring most of the 12 million undocumented immigrants—or at least calculated to bring most of the 12 million undocumented immigrants—out of the shadows and identify those who were holding responsible jobs, paying taxes, and raising their families, in many instances with children who were American citizens. This approach was postulated on the obvious proposition that we cannot deport 12 million people. It is simply impossible to take them into detention and to have them housed pending deportation proceedings. Bringing the undocumented immigrants out of the shadows would provide an opportunity to identify those who were convicted criminals where they posed a real threat.

At that time I visited a number of detention centers where undocumented immigrants convicted of crimes were

held and introduced legislation which would have accelerated the deportation of those who were criminals and were a threat to our society, demonstrated by their prior conduct. But we continue to have the problem of undocumented immigrants living in the shadows, afraid of being taken into custody, especially in Arizona, and concerns everywhere with the prospect of the Arizona law being enacted other places, that they continue to be at the mercy of unscrupulous employers. We have enormous areas of need for temporary workers. That is a proposition which many of my colleagues have been urging and which I think needs to be acted upon.

We have the suggestion of the so-called DREAM Act which I had at one time cosponsored. I later came to the view that if we cherry-picked—if we take the DREAM Act, if we take temporary workers, if we take the expansion of visas, which is necessary when so many people want to come to this country who would be very productive in our high-tech society—Ph.D.s, highly educated individuals—that if we move along any of those lines and cherry-picked, it would take away a lot of the impetus for the notion to have comprehensive immigration reform.

So I continue to believe it is not desirable, not advisable to cherry-pick, even though some of those individual items may be very meritorious on their own.

In light of what has happened in Arizona and in light of what the administration is proposing on the use of the National Guard, it is my view it is more imperative than ever that the Congress face up to its responsibility, tackle this issue, notwithstanding the political pitfalls, and to deal with it.

Mr. President, I ask unanimous consent that the text of my prepared statement be printed in the CONGRESSIONAL RECORD as if read in full, and the abbreviated statement I made on July 30, 2007, be printed in the RECORD since these two statements more comprehensively summarize my views on this subject.

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

STATEMENT OF SENATOR ARLEN SPECTER ON THE NEED FOR COMPREHENSIVE IMMIGRATION REFORM

Mr. President, I have sought recognition to address comprehensive immigration reform. I am fully committed to working with the Obama Administration, and a bipartisan group of Senators, to enact a comprehensive immigration reform law that improves our economy, reunites families, and strengthens our borders.

I have long supported comprehensive immigration reform. As Chairman of the Judiciary Committee in the 109th Congress, I worked closely with Senator Kennedy on, and cosponsored, the bi-partisan Comprehensive Immigration Reform Act of 2006. In the 110th Congress, I continued to work with Senator Kennedy to construct a bi-partisan agreement, called ''the Grand Bargain,'' to achieve this much needed reform. Our efforts resulted in the introduction of the Comprehensive Immigration Reform Act of 2007. Both bills fell prey to partisan politics.

We must renew our efforts. The immigration system in the United States is inadequate to meet the needs of our country in the 21st century. An insufficient number of visas are made available to meet the changing needs of the U.S. economy and labor market. Eligible family members are forced to wait for years—some for decades—to be reunited with families living in the United States. An overburdened system unfairly delays the integration of immigrants who want to become U.S. citizens. Unscrupulous employers who exploit undocumented immigrant workers undercut the law-abiding American businesses and harm all workers. Finally, as we all know too well, the billions of dollars spent on enforcement-only initiatives in the past have done little to stop the flow of unauthorized immigrants into our country.

Much work needs to be done. One end of the political spectrum will criticize us for creating a path to citizenship for those immigrants who entered without authorization, and those on the other end of the political spectrum will criticize us for not being sufficiently compassionate. But we have a public duty, indeed a moral imperative, to come to grips with this issue. We are a nation that throughout its history has welcomed and been made richer by immigrants. Our country was built on the contributions of hard working and ambitious immigrants, like my father Harry, who emigrated from Russia in 1911. The path to American citizenship is a path my father had and others today deserve as well. The time for comprehensive immigration reform is now.

The Development, Relief, and Education for Alien Minors (or DREAM) Act amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by eliminating the restriction on state provision of postsecondary educational benefits to unauthorized aliens by allowing unauthorized aliens to apply to adjust their status. The bill enables eligible unauthorized students to adjust to conditional permanent resident status provided the student: (1) entered the United States before his or her 16th birthday and has been present in the United States for at least five years immediately preceding enactment of the bill; (2) demonstrates good moral character; (3) is not inadmissible or deportable under specified grounds of the Immigration and Nationality Act; (4) at the time of application, has been admitted to an institution of higher education or has earned a high school or equivalent diploma; (5) from the age of 16 and older, has never been under a final order of exclusion, deportation, or removal; and (6) was under age 35 on the date of this bill's enactment.

During the 108th Congress, I cosponsored a similar DREAM Act sponsored by Senator Hatch and cosponsored by Senator Durbin. During the 109th and 110th Congresses, I included provisions of the DREAM Act in the comprehensive immigration reform bill that I championed on the Senate Floor because it is one side of an important part of the need for reform. Another side of that need is to enhance border security and tamp down on cartel violence along our Southern border. I voted against cloture on a motion to proceed to the DREAM Act in 2007 because I thought passing the bill would undermine the pressing need to enact Comprehensive Immigration Reform. In explaining my vote, I said:

I believe that the DREAM Act is a good act, and I believe that its purposes are beneficial. I think it ought to be enacted. But I have grave reservations about seeing a part of comprehensive immigration reform go forward because it weakens our position to get a comprehensive bill.

Right now, we are witnessing a national disaster, a governmental disaster, as States and counties and cities and townships and boroughs and municipalities—every level of government—are legislating on immigration because the Congress of the United States is derelict in its duty to proceed.

We passed an immigration bill out of both Houses last year [2006]. It was not conferenced. It was a disgrace that we couldn't get the people's business done. We were unsuccessful in June in trying to pass an immigration bill. I think we ought to be going back to it. I have discussed it with my colleagues.

I had proposed a modification to the bill defeated in June, which, much as I dislike it, would not have granted citizenship as part of the bill, but would have removed fugitive status only. That means someone could not be arrested if the only violation was being in the country illegally. That would eliminate the opportunity for unscrupulous employers to blackmail employees with squalid living conditions and low wages, and it would enable people to come out of the shadows, to register within a year.

We cannot support 12 to 20 million undocumented immigrants, but we could deport the criminal element if we could segregate those who would be granted amnesty only.

I believe we ought to proceed with hearings in the Judiciary Committee. We ought to set up legislation. If we cannot act this year because of the appropriations logjam, we will have time in late January. But as reluctant as I am to oppose this excellent idea of the Senator from Illinois, I do not think we ought to cherry-pick.

It would take the pressure off of comprehensive immigration reform, which is the responsibility of the Federal Government. We ought to act on it, and we ought to act on it now.[i]

Mr. President, in the ensuing years the need for comprehensive immigration reform has become increasingly dire. On Friday, April 23, 2010, Arizona enacted a law that, according to the New York Times, ''would make the failure to carry immigration documents a crime and give the police broad power to detain anyone suspected of being in the country illegally.''[ii] The text of the law provides: ''For any lawful contact made by a law enforcement official or agency of this State or a county, city, town or other political subdivision of this State where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person.''[iii] Lawmakers in other States, including Pennsylvania and Maryland, introduced companion measures.

On April 27, 2010, I questioned Department of Homeland Security Secretary Janet Napolitano about the new Arizona law. I noted that the failure of Congress to enact comprehensive immigration reform led Arizona to legislate ''in a way which has drawn a lot of questions, a lot of criticism.''[iv] I explained that the new Arizona provisions appear to create ''a significant risk of racial profiling.''[v] After noting that Secretary Napolitano is the immediate-past Governor of Arizona, I noted that ''the message sent from Arizona was that movement needs to occur that this issue should not be allowed to languish.''[vi] Secretary Napolitano replied, ''I think there are a lot of issues. If this law goes into effect—and, again, the effective date is not until 90 days after the session ends. But if it goes into effect, I think there are a lot of questions about what the real impacts on the street will be, and they are unanswerable right now.''[vii] She went on to testify: ''I think there is a lot of cause for concern in a lot of ways on this bill and what its impacts would be if it is to actually go into effect. And I think it signals a frustration with the failure of the Congress to

move. I will work with any Member of the Congress and have been working with several Members of the Congress on the actual language about what a bipartisan bill could and should contain.''[viii] When pressed about the potential for ''racial profiling and other unconstitutional aspects of the Arizona law,''[ix] Secretary Napolitano said, ''Well, I think the Department of Justice, Senator, is actually looking at the law as to whether it is susceptible to challenge, either facially or later on as applied, under several different legal theories. And I, quite frankly, do not know what the status of their thinking is right now.''[x]

It turns out she was right. On Thursday, May 27, 2010, Nathan Koppel of the Wall Street Journal reported that the Department of Justice was ''Likely to Sue Over Arizona Immigration Law.''[xi] According to the Journal, Attorney General Holder ''met with big-city police chiefs who are troubled by the Arizona law, which makes it a state crime to be in the U.S. illegally and can require police to question certain people about their immigration status.''

Mr. President, I think it is high time for the United States Senate and House of Representatives to pass comprehensive immigration reform to avert potentially unconstitutional state laws in this matter of national significance. We should take up Secretary Napolitano's offer to help us draft a bipartisan bill that can stand bicameral scrutiny. And we should do so now. I wrote President Obama on April 15, 2010 to convey my willingness to press for reform this year and I wrote to Majority Leader Reid on April 28, 2010, to convey the same message out of a strong conviction that comprehensive immigration reform must be done now.

ENDNOTES

[i] 153 Cong. Rec. S13300–02, *S13305 2007 WL 3101493 (Cong. Rec.) Oct. 24, 2007.

[ii] Randal C. Archibold, Arizona Enacts Stringent Law on Immigration, New York Times, Apr. 23, 2010.

[iii] SB 1070, §11–1051 (available online at: http://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf).

[iv] Senate Judiciary Committee Hearing, ''Department of Homeland Security Oversight'' Tr. at 94, Apr. 27, 2010.

[v] Id. at 95.

[vi] Id.

[vii] Id. at 95–96.

[viii] Id. at 96.

[ix] Id. at 96–97.

[x] Id. at 97.

[xi] Nathan Koppel, DOJ Likely to Sue Over Arizona Immigration Law, Wall Street Journal, May 27, 2010.

IMMIGRATION—(SENATE—JULY 30, 2007)

Mr. SPECTER. Madam President, I begin by thanking the staff for staying a few extra minutes to enable me to come back to the floor to make a short statement.

I have sought recognition to speak about a revised reform bill on immigration. In the course of the past 3 years, the Senate has spent a great deal of time on trying to reform our immigration system: to begin to fix the broken borders; to add more Border Patrols; to undertake some necessary fencing; to add drones; to undertake employer verification by utilizing identification which now can provide, with certainty, whether an immigrant is legal or illegal; to take care of a guest worker program to fill employment needs in the United States; and to deal with the 12 million undocumented immigrants.

During the 109th Congress, when I chaired the Judiciary Committee, we reported out a bill. It came to the floor, and after considerable debate it was passed. The U.S. House of Representatives passed legislation directed only at border patrol and employer verification, and for a variety of reasons we could not reconcile the bills and enact legislation.

This year a different procedure was undertaken: to have a group of Senators who had been deeply involved in the issue before craft a bill. It did not go through committee, and, as I said earlier on the floor, I think it probably was a mistake because the committee action of hearings and markups and refinement works out a lot of problems. At any rate, as we all know, after extensive debate, the bill went down. We could not get cloture to proceed, and it was defeated.

It was defeated for a number of reasons. But I believe the immigration issue is one of great national concern—great importance—and ought to be revisited by the Congress and that ought to be done at as early a time as possible.

We have a very serious problem with people coming across our borders—a criminal element, and a potential terrorist element. The rule of law is broken by people who come here in violation of our laws. We have continuing problems from the 1986 legislation that employer verification is not realistic because there is no positive way of identification.

No matter how high the borders or the value of border patrol, it is not possible to eliminate illegal immigration if the magnet is present. The legislation I will be putting in as part of the Record at the conclusion of my remarks is a draft of suggested proposals to be considered by the Senate. There are two major changes which have been undertaken.

Much as I dislike to, I have eliminated the automatic path to citizenship but instead deal with the fugitive status of the undocumented immigrants, the 12 million, and eliminate that fugitive status. Whether it is categorized as permanent legal resident or some other category, as a matter of nomenclature it can be worked out.

But the principal concern has not been the citizenship, although it is a desirable factor to try to integrate the 12 million into our society. But the principal concern has been that when an undocumented illegal immigrant sees a policeman on the street, there is fear of apprehension and being rounded up and deported, or the undocumented illegal is at the mercy of an unscrupulous employer who will take advantage of them and they cannot report to the police the treatment or a violation of law by an employer because they are fearful of being arrested and deported. In many places you cannot rent an apartment or undertake other activities. So I think eliminating the fugitive status is a major improvement.

The other significant change is to not tamper with or change family unification but to leave it as it is now. We had come up with, with the bill which was defeated, an elaborate point system for immigration. It was our best effort but, candidly, it turned out to be half-baked. It did not go through the hearing process to hear from experts. It did not have that kind of refinement and raised a lot of problems. That could be revisited at a later date. I have worked with the so-called interest groups representing immigration interests and have had what I consider to be a relatively good response.

I do not want to characterize it or put words in anybody's mouth. There is a certain reluctance to make any more concessions because concessions were made last year and the bottom fell out. So they made an inquiry, understandably so, that there be some realistic chance of getting the bill passed if they are to give up a path to citizenship.

I have undertaken to talk to many of my colleagues, Senators who opposed the bill, to get a sense from them as to whether, with the automatic path to citizenship out, and dealing only with the fugitive status, that there might be some greater willingness to find an accommodation and deal with the issues.

With respect to citizenship, even under the legislation that was defeated, there would not be an opportunity for citizenship until at least 8 years have passed, to take care of the backlog, and then another 5 years to work out the 12 million undocumented immigrants. So the citizenship, even under the bill which was defeated, was not something which was going to be imminent.

We have seen local governments and State governments trying to deal with the issue. Reports are more than 100 laws have been passed and ordinances enacted which would deal with the immigration problem. They cannot do it on a sensible basis. Last week the U.S. District Court for the Middle District of Pennsylvania handed down an opinion that the city of Hazelton, notwithstanding the understandable efforts by the mayor, program was not constitutional; that under our laws, the answer has to come from the Congress.

We have seen a lot of unrest on the issue. The front page of the Washington Post the day before yesterday had a report about groups of immigrants feeling that they had been mistreated. There was an uneasiness on all sides, uneasiness by people who are angry about the violation of our borders, by immigrants who think they are not being fairly treated, and a grave concern about the availability of workers on our farms across America, concerns of the hotel industry and landscapers and restaurateurs about the adequacy of our labor force. So there is no doubt that this is a very significant issue.

Last week I circulated to my 99 colleagues a letter, and one page summarizing the study bill—I will call it a study bill.

I ask unanimous consent that the text of the draft proposal and the one-page letter circulated to all other Senators be printed in the RECORD.

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

(See exhibit 1.)

Mr. SPECTER. In conclusion, I emphasize that I am inviting suggestions and comments for improving the bill. The one view that I do have, very strongly, is that it is our pay grade to deal with this issue. Only the Congress can deal with the immigration problem, and it is a matter of tremendous importance that we do so. We obviously cannot satisfy everyone, but I invite analysis, criticism, and modification.

I see my distinguished colleague from Vermont, one of my distinguished colleagues from Vermont, awaiting recognition.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

DEAR : I believe it is possible to enact comprehensive immigration reform in this Congress, perhaps even in this calendar year, if we make two significant changes in the bill we recently had on the floor.

First, a new bill should eliminate the automatic path to citizenship for the approximately 12 million undocumented immigrants. Instead, we should just eliminate the fugitive status for the 12 million so that they would not be fearful every time they see a policeman, be protected from unscrupulous employers who threaten to turn them in if they don't do the employer's bidding, and be free to do things like rent apartments in cities which now preclude that. From soundings I have taken from many senators, that should take the teeth out of the amnesty argument, which was the principal reason for the defeat of the last bill.

Second, we should not tamper with the current provisions on family unity with the elaborate point system which was insufficiently thought through. If that is to be ultimately accomplished, we need hearings and a more thoughtful approach.

Third, although not indispensable, I believe we should provide more green cards to assist the hitech community.

The enclosed draft bill covers these three changes and also includes the guest worker program, the increased border security and enhanced employer verification in the last bill.

Because it will be easier to get real border security if we deal with the 12 million undocumented immigrants, I think this proposal presents an alternate and plausible path to achieve comprehensive immigration reform now.

I have discussed this proposal with the senators who were part of the core negotiating group and with the relevant interest groups and have received a generally favorable response and, in many cases, an enthusiastic response. Similarly, in discussing the proposed bill with the dissenters, I have heard no strenuous adverse response so I believe it is worthy of a repeat effort. Although the defeat of the bill on the Senate floor was a major disappointment, I think that we proponents of comprehensive immigration reform have significant momentum and these changes, perhaps supplemented by other modifications, could put us over the top.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I thank the Chair. In the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Daily Digest clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Michigan.

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

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

Ms. STABENOW. Mr. President, we are coming up to a critical deadline this week once again that touches millions of families across our country who don't have a job, not because they don't want to work but because they have not been able to find one in the hardest hit economy since the Great Depression. Even though things are turning around, we have millions of people yet to be able to find a job, to be able to care for their families and keep a roof over their heads.

Twice this year already, the Congress has missed deadlines for extending unemployment benefits because of Republican obstructionism, basically telling millions of Americans: Tough.

We are now in a situation where today we will offer a temporary extension to be able to continue unemployment benefits and help with health care, as well as support for our doctors whom we are all concerned about maintaining their Medicare payments, and we will ask for an extension. I hope the answer, again, is not: Tough. That is what I am very hopeful of.

Today there are 15.3 million Americans who have lost their jobs through no fault of their own, and they rely on an unemployment insurance system to pay the bills and put food on the table. We have also heard from economists that this is an important way of keeping dollars in the economy because when someone is out of work and they have to be able to buy food and put gas in the car and be able to do the other basics, it keeps money in the economy so that when someone gets an unemployment check, they are spending it because they have to spend it, and that is part of what is a stimulus to the economy.

People are trying to find work and trying to support their families during tough times. They want to be working, as I said. They are pounding the pavement every day. They are putting in applications every day. This is not their fault. They have worked all their lives. Many of them find themselves, having worked for companies for 20 or 30 years, now in their fifties and they have played by the rules and they are finding that because of what has happened in a global economy and unfair trade rules and what has happened on a lot of different fronts, they don't have a job. So they are asking that we continue to understand that, understand the real world for millions of people.

We have 15.3 million people who have lost their jobs and who are receiving assistance. That doesn't count the people who are no longer receiving any kind of help or are working one, two, three part-time jobs just to try to figure out how to make it, and, of course, those jobs don't provide health insurance. As we transition to help them, we are not yet there to be able to help those families.

When President Obama and when all of us as Democrats took office last year, we saw at that time a loss of almost 800,000 jobs a month. We have been laser-focused on jobs in the Recovery Act. We have been laser-focused on doing everything we can, and continue to do that. It is critical that we pass a small business bill to create capital for our small businesses that have been hit.

We have another bill dealing with innovation, and the bill that will be coming to us that extends unemployment is a major jobs bill, and we are continuing to focus on that. With what we have already done, we have now gone from almost 800,000 jobs a month being lost when the President first took office, to moving to that being about zero at the end of the year, to being about 250,000 now new jobs being created. That is good. It is not enough. We know that. It is not nearly enough, but at least we have turned the ship around. At least we are not continuing to go down, down, down as we did with the last administration for 8 years when we lost 6 million manufacturing jobs alone.

So we are turning it around. It takes time. It takes way too much time. I am very impatient about that because I know the best thing we can do to help anyone who doesn't have a job in my State is to make sure they can get a job. Folks in my State and folks in Illinois want to work. They know how to work. They are good at working. It is not their fault that there are six people looking for every job that is available right now. But the reality is, because of that, people are looking to us to understand what is going on in their lives, what they are facing in terms of enormous pressures just to keep their heads a little bit above water. They are asking us to extend unemployment benefits as this economy turns around, and understand.

So we come now to another day of reckoning. We have gone through this before. I remember last November when there was a filibuster for—I believe it was 4 weeks—on extending unemployment benefits, and then everybody voted for it. After creating tremendous stress in the lives of families who were trying to figure out what was going on, after 4 weeks of filibustering, then we finally saw people voting for it.

We have seen various versions of obstruction on the floor of the Senate. I hope today is different. I hope today people are going to say they understand that we need to extend for 30 days if we are not able to complete the jobs bill, depending on what happens if it comes over from the House. I hope we will be able to do that.

If there is a continual effort to block the 1-year extension, 1.2 million Americans will lose help right now for themselves and their families while they are looking for work, and over 300,000 people in my great State of Michigan. As I said, these are people who are doing everything we have asked them to do.

Let me just share some of the e-mails and letters I get, and I get many of those.

I get many of those. Let me share this from Rick Allegan, who wrote:

I will not be able to take care of my family at all if benefit extensions are cut. After being laid off, I have not even been able to land a job at local restaurants or fast food places. I am very grateful for these extensions—the help the State is giving me is allowing my children to eat and my family to stay afloat. Please do not take [this help] away. I am confident I will land a job and be back to work. Until then, I just don't want to worry about where I am going to get funds [I need]. I am trying very hard to find work.

Mr. President, I am sure that is true.

Clinton from Battle Creek wrote:

I am a 56-year-old unemployed worker in Michigan. I lost my job at the end of 2008, after a 38-year career in the auto repair industry. When I got laid off, I took advantage of Michigan's No Worker Left Behind program, and I am currently in college working toward a degree in human services. To that end, I work with men at the Calhoun County Jail, and I am a mentor at the newly formed ''Mentor House'' for newly released prisoners here in Battle Creek. When I finish my education, I will be gainfully employed and an asset to my community. To this end, also let me say that if I lose my unemployment benefits, I may not be able to finish college, and we could also lose our home because of the

loss of income. Needless to say, we don't want either of those things to happen. Thank you very much for all you do, as I am truly grateful as an American citizen to have all that we are afforded.

That is somebody who is doing what we told him to do—go back and get retrained. But he is only able to do that because of a temporary safety net that will help while that is going on. The rug could be pulled out from under him and his family.

Christopher from Three Rivers said this:

I have been unemployed for 13 months and some days.

I have never, ever been unemployed this long—not ever. And it's astoundingly difficult to find anything—more or less even receive a reply to an inquiry. I am registered with no fewer than four temp offices and have been for some months, and nothing—not a single call, even though they assure me they are in fact looking for me.

And so I do all I can, and daily, trying not to lose hope. But what truly appalls and galls me is Congress' attitude that all is well and the economy is getting better, so, no, there won't be any further extensions of unemployment [insurance].

And let's be clear about something: I detest this. I can't stand living on barely anything, but to then have it implied that I somehow enjoy doing this and thus am lazy and enjoy living on unemployment is quite offensive.

Mr. President, that is offensive to millions of Americans.

He says:

I can assure you that I do not, and I have been doing everything in my ability to find work.

People want to work. People have worked their whole lives. It is not their fault that we find ourselves in this situation. It is not their fault that there was recklessness on Wall Street that led to a collapse of financial markets, that closed down credit, that caused small businesses not to be able to get loans to be able to keep business going or manufacturers to be able to get the support they needed. It is not the fault of the American people. It is not the fault of a breadwinner who can no longer bring home the bread.

We have had a collapse on a number of levels. We are rebuilding again. Things are turning around, as slow as it is. The unemployment rate in Michigan is coming down. That is a good thing, but it is not fast enough for the people whom we represent who need temporary help until that job is available, until they are able to get that community college degree, to be able to get that training for the new job we have all told them they should go get. Go get retraining, we say. But how do you put food on the table and pay for a roof over your family's head in the meantime? We have done that through unemployment benefits that allow people to be able to become economically independent again.

That is what we are talking about here—temporary help. That temporary help has gone on longer than any of us would like to have it go on. No one is more concerned about having to come to the floor and talk about extending unemployment benefits, but the reality is, for Americans, this is not their fault. We have to figure out how we can continue to support them in their efforts to look for work, to be able to go back to school so they can, in fact, continue their lives with their families, be productive citizens, and be able to continue to contribute to this great country.

We also know we have millions of Americans who rely on help with health care. We said to them years ago: If you leave your job or lose your job, you can continue your health care benefits. The problem is that it is so expensive when you have to pay both the employer contribution and the employee contribution, most people haven't been able to do it.

Last year, in the Recovery Act, we did something about that. We said we would help so that people could continue their health insurance in COBRA. That expires as well. Just as those jobs have not been there, until we fully see a health reform bill in place, which will take time, as we know, we also need to continue to help with health care.

This bill that will be coming in front of us, the American Jobs and Closing Tax Loopholes Act, also includes a very important 1-year fix—actually, it is beyond 1 year now; it will include multiple years—to fix what has been a drastic cut in reimbursements to doctors, a cut that, if it were allowed to happen, would force many doctors' offices to stop seeing Medicare families and military families.

As you know, I believe the payment formula that has been in place and the cuts that have been scheduled for many years should be completely eliminated and we should completely change the system, which is called SGR. But until we can get to that point—and I hope it is very soon—we need to make sure doctors have confidence that those drastic cuts will not happen and that seniors and military families know cuts won't happen and that they are going to be able to continue to see their doctor.

It is critical right now that we work together today to make sure we are allowing these important policies—the help for people who have lost their jobs, whether it be health care or unemployment insurance, the ability to continue to provide the kinds of Medicare payments so seniors can see their doctors—it is critical that we don't let that lapse. We will have an opportunity on the floor today to continue that either temporarily or permanently. Obviously, I would like to see the full jobs bill passed today and see this completed at least until the end of this year. If that is not possible, it is not the fault of the people who don't have jobs, so I don't know why they should be the ones who are hurt because of it.

I am very hopeful that one way or the other we are going to let people in this country know that as we focus on jobs—which is the best thing we can do, and it is what everybody wants—and continue to turn this economy around, as we continue to see jobs being created in the private sector, we will not forget the people who have gotten caught in this economic tsunami through no fault of their own.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. BURR. Mr. President, I came to the floor to call up what I thought was a very important amendment. I understand the majority is not letting controversial amendments come up now, so I will not call it up and put the Chair on the spot of having to object. But I do want to take the opportunity to speak on my amendment. My hope is, if we conclude all germane amendments, I will have the opportunity, even if there is a limited amount of time to talk about them or debate them, that we would at least have a vote on them, because I think not to have a vote is to ignore the people we are representing.

I intended to call up my amendment that proposes the Secretary of the Veterans' Administration have the authority to take any savings realized during the bid process on major construction projects and use it to fund other authorized construction projects within the VA; in other words, take care of providing the facilities our veterans need for the delivery of health care they have so richly deserved.

Because of a bad economy, the VA has actually been able to strike unbelievable deals with the projects they had before them. From that, the best estimate I have is that the VA has saved $103 million on 12 projects. Let me say that again. The VA has saved $103 million on 12 projects.

As my colleagues all know, in section 901 of this bill, it proposes taking $67 million from the construction projects for medical facilities and maintenance of VA facilities and to dump that $67 million into a thing we call the Filipino Equity Fund.

Let me say that again, because I think most people listening probably do not believe what I said. We are going to take $67 million out of the VA construction and maintenance fund that we were able to save because of good work on contracting on 12 projects, and we are going to shift $67 million over to the Filipino Equity Fund.

On the face you would say, well, if it is going to Filipino Equity Fund, it is not going to U.S. veterans. You are right. It is not going to U.S. veterans.

Money appropriated by this Congress for the construction and the maintenance of medical facilities, hospitals,

outpatient clinics, maintenance of those facilities, we are going to shift over to the Filipino Equity Fund. I will talk more a little bit later about the Filipino Equity Fund.

First and foremost, the money saved in the bid process was appropriated to fund major construction projects within the Department of Veterans Affairs. We are talking about hospital construction, renovation, cemetery construction, and other capital improvements. Let me assure you the President knows this. The needs are vast.

Let me quote from last year's Senate MILCON Appropriations report:

> The committee remains concerned that the Department has a significant problem with unfunded liability on its existing major construction projects. In fiscal year 2010 [this one] the Department will have 21 partially funded projects with a cumulative future cost of nearly $4.5 billion.

Let me say that again: In this report from this Congress about the 2010 budget, we criticized the Veterans' Administration because they had 21 partially funded projects with a cumulative future cost of $4.5 billion. All of a sudden, this year, because of a down economy and our ability to negotiate better deals, we have a surplus in the account where we have saved $103 million. And what are we going to do? We are going to shift it all over to the Filipino Equity Fund, not put it toward $4.5 billion worth of identified shortfalls in existing projects that have already been started.

We are not talking about the ones on the list that might go to the Presiding Officer's State or to my State of North Carolina, where I have got the highest percentage of veteran retirees as a percentage of anywhere in the country. Let me assure you, we have got needs today there. If you want to do something with that $103 million, I can put outpatient clinics in North Carolina where our veterans will receive real health care that they deserve and, more importantly, they earned because of their service to the country. But, no, $67 million of it is going outside of the Veterans' Administration and is going to the Filipino Equity Fund.

Let me also quote from a prominent veterans organization, the Veterans of Foreign Wars, whose witness testified at the committee's February budget hearing.

> The challenge for VA is there are still numerous projects that need to be carried out, and the current backlog of partially funded projects is too large. This means that the VA is going to continue to require significant appropriations for the major and minor construction accounts.

That is one of the veterans service organizations, the organization that represents veterans all over this country, warning us: You know what. There are so many projects out there, there is not enough funding to go around. Why are we doing this?

Second, given the acknowledged need I have described, it makes no sense to remove the funds from an account expressly dedicated to meeting the needs of that account. There is no Member of the Senate who can tell me that VA construction does not need this $103 million. But we are going to shift it. We are going to do that because we can.

Congress provides taxpayer dollars for major construction projects. These dollars should remain for that purpose. Why? Because the need exists. If not, taxpayers are going to have to pay for it with additional taxpayer money.

Third, we have a massive deficit. I am not sure many Members of the Senate will acknowledge it. We have a massive deficit, and hard choices have to be made with limited resources. The choice here is what do you do with $67 million. This $67 million has been identified as savings within the VA construction budget. What do you do with it?

Well, the amendment I would have offered—and, again, I wish I could call it up so my colleagues could debate it with me and vote on it, but it is contentious. I understand. I never thought it would be contentious to try to protect what our veterans are due. I never thought it would be contentious that if you found somebody taking money and putting it where the Senate did not authorize it to be that that was contentious. I thought that is why we were here. I thought that is called oversight.

Well, the amendment I would have offered proposes that we keep the money to meet the needs Congress intended it for: to build hospitals, for cemetery construction, for major renovation of VA facilities.

I have also filed an amendment proposing to fund the provisions of the family caregiver law the President just signed into law. I am not going to call it up. But my colleague, the Presiding Officer, knows; he sits on the VA Committee with me.

The President signed into law a great bill. It is to allow a family member of an injured servicemember to be their advocate, those 1,500-plus severely injured Americans with a traumatic brain injury who need an advocate fighting for their rehabilitation, because, quite simply, the system does not fight for them.

They could not leave their job and lose their salary because they lost their health care. And the President saw the wisdom in a bill that we passed out of the Veterans Affairs Committee. It is going to be costly, about $4 billion over 10 years, to give a financial stipend to that family member, a financial stipend that is no different than we would have paid some stranger off the street to come in and take care of that servicemember.

Now we are going to give the same amount of money to that spouse or that father or that mother. And, oh, by the way, we also provide them access to TRICARE health care coverage that we provide our soldiers and their families.

That is about $4.2 trillion. If you want to use $67 million for something that Congress didn't appropriate it for, which is construction, then let's use the $67 million to offset the funding of the caregiver program, something that is acknowledged that we need and, more importantly, we understand exactly what the impact is on our service personnel.

The question my amendment presents is, Is providing additional resources for veterans so that they have modern medical facilities to receive care a higher priority than ensuring that Filipino veterans get a pension benefit? It is as simple as that. There is no way one can spin this any differently. We are either going to give Filipinos a pension benefit or we are going to supply our veterans with the health care infrastructure they need and, more importantly, deserve.

Irrespective of where we come down on the Philippine issue—and I will provide my views on that momentarily—the ultimate issue is one of making tough decisions, tough choices. I personally don't think this is one of those. I respect my colleagues who believe otherwise.

Two years ago, I took this floor to argue against establishing this special pension for Filipino veterans who fought under U.S. command during World War II. My argument was based on several factors. First, I didn't believe it was the right priority given the other needs that existed in our veterans community. Nothing has changed. There is a greater need in our veterans community today than there was 2 years ago when I argued the need on behalf of our veterans versus Filipino veterans.

Second, I don't think it is appropriate to pay a benefit that is not adjusted for the different standards of living that exist between the Philippines and the United States. Example: Pensions in the United States for veterans achieve an income of 10 percent above the poverty level. The special pension we are talking about during this debate—and the debate 2 years ago—got Filipino veterans to 1,400 percent above Filipino poverty: U.S. veterans, 10 percent above poverty; Filipino veterans, 1,400 percent above the poverty line. We should have called this the Filipino millionaires club.

Finally, I don't think these benefits were ever promised in the first place. I will not get into the exhaustive debate the chairman of the Appropriations Committee and I had 2 years ago. I don't remember a time where anybody told me anything I said was not factual or suggested it was wrong. I made a tremendous case that in the 1930s, these veterans were organized to fight for the soon-to-be-independent Philippine State. They were called under U.S. command in defense of their own homeland.

Let me say that again. They were called under our command to defend their own homeland. The view of the Congress immediately following the war was that care of these veterans was

a shared responsibility. The United States provided a limited array of benefits for Filipino veterans, including disability pay for service injuries, new hospitals, which we later donated to the Philippines, and medical supply donations.

That was the Congress immediately following the war, the decision this body made when this was a fresh remembrance. It was never expected that the United States would provide the same benefits to Filipino veterans as we do for U.S. veterans.

Here is a quote from 1946 made by then-Senate Appropriations Committee chairman Carl Hayden:

> [N]o one could be found who would assert that it was ever the clear intention of Congress that such benefits as are granted under . . . the GI bill of rights—should be extended to the soldiers of the Philippine Army. There is nothing in the text of any laws enacted by Congress for the benefit of veterans to indicate such intent.

Again, the chairman of the Appropriations Committee in 1946, commenting on whether we were committed, whether we had promised, whether we had insinuated.

The shared responsibility for Filipino veterans was a view that held across Republican and Democratic administrations for six decades. Proposed pension benefits for Filipino veterans was opposed by every administration in Congress since 1946 up until 2008 when all of a sudden we created the Filipino Veterans Equity Compensation Fund.

Here are some facts surrounding the creation of the fund and why I am concerned with what we are doing today, especially on a bill that is meant to provide relief from recent disasters in the United States and to fund our troops. The Filipino Veterans Equity Compensation Fund was created to make payments to Filipino veterans of World War II in increments of $9,000 or $15,000, depending upon citizenship. This body authorized the creation of the fund and appropriated $198 million to fund it. The fund was later officially created, and the $198 million was officially authorized under the American Recovery and Reinvestment Act, the stimulus package.

Remember the big bill we passed to put Americans back to work? Well, $198 million went to create the Filipino equity fund. I wonder if it created any jobs over there.

By law, Filipino veterans were given 1 year in which to file claims for benefits against the fund. That 1-year period ended February 16, 2010. February, March, April, May—we are a little over 3 months past the deadline for any Filipino veteran who wanted to file a claim to file the claim. The law also required—and this is important—that the Veterans' Administration submit detailed information within the President's budget submission on the operation of the compensation fund, the number of applicants, the number of eligible persons receiving benefits, and the amount of funds paid. I am not sure anybody here would be shocked to learn that we got the President's submission, but there wasn't a VA report in it.

As a matter of fact, in December, when, as ranking member, my staff inquired with the VA what the balance of the Philippine equity fund was, we were well under $198 million having been allocated. That was the end of December. We only had 60 days left for people to actually process their applications before the cutoff date. I find it unbelievable that we would spend almost as much in the last 60 days as we spent in the first 10 months, as people applied for this benefit.

There was no detailed information provided in the President's budget. All that was there was an estimate that the administration expected $188 million to be expended on submitted claims. I turn to my colleague from Maine, but I think the President's budget came in in February or early March, after the deadline. The President's budget said they are going to use $188 million, well short of the $198 million Congress had already appropriated to the Philippine equity fund. At no point in the intervening months since the President submitted his budget were we notified of a shortfall in the fund.

We see the pattern. The pattern is the White House said there was enough money. We had a surplus in there. The Secretary of the VA never told the ranking member, the chairman of the Veterans' Affairs Committee, the White House, or my staff that they were short money.

We will take up at another time with the Secretary of the VA his statutory obligation to submit a report to the Congress, but now we are here.

On May 7, Secretary Shinseki sent a letter to the chairman and ranking member of the House and Senate Appropriations Committees informing them, but not officially requesting, of a $67 million shortfall. Where did this come from? This is like ''Star Trek.'' Just out of the blue, it appears, 3½ months after the deadline for filing. Well, if you look at the amount of disability claim backlogs at the VA, you understand they don't process things very quickly, even for our veterans. But they have processed the Filipinos' a lot faster than they have ours and, more importantly, they have reached out in a supplemental spending bill. It is an emergency. A supplemental spending bill is for emergencies. How does this fit as an emergency? Tell me where this should not be offset? Why should the American taxpayer be required to go out and borrow this money?

I apologize. It is paid for. We are stealing it from the VA. We probably borrowed it to give it to the VA, but now we are stealing it from the VA and giving it to the Philippine equity fund.

I find it interesting that we are rushing to meet this shortfall without understanding how exactly we went from being under budget to being grossly over budget. I say ''grossly.'' We allocated $198 million. The White House projected in February they were going to use $188 million. All of a sudden, we have to take another third in an emergency capacity to make sure they can meet the needs.

One other point I wish to make: There is clear language authorizing appropriations for the Philippine equity fund. Make no mistake. There is authorization language, clear authorization language. I quote from the Recovery Act now, the stimulus package, in reference to the funding for the Philippine equity fund:

> It is authorized to be appropriated to the compensation fund $198 million to remain available until expended to make payments under this section.

So even in the underlying bill language, if the underlying bill language is enacted, the VA has no legal obligation to spend it. They have no legal authority to spend it—let me put it that way—because the additional money hasn't been authorized. We authorized $198 million. For the VA to spend more, quite frankly, they do not have the authority, as I read the law, and as I read the language quoted in the stimulus bill, the Recovery Act. This kind of oversight is what happens when matters are rushed through without appropriate vetting.

This week our Nation's debt went above $13 trillion. Spending is out of control, and there is no end in sight. As a nation, over the next 10 years—if we did not borrow another penny—we owe $5.4 trillion in interest payments to service the money we have borrowed. If we compare that to the entire sovereign debt of the European Union, which is $12.7 trillion, we owe almost 50 percent of the entire sovereign debt of the European Union in interest payments over the next 10 years—not in reducing debt, servicing debt.

Although another $67 million to add to the Filipino fund might seem like a drop in the bucket, I do not think it does to people in North Carolina: the soldiers at Fort Bragg, the marines at Camp Lejeune, the airmen at Seymour Johnson, the aviators at Cherry Point, the servicemembers who ship all the ammunition the U.S. military uses out of Sunny Point, the thousands of family members who rely on the health care and the benefits.

We are experiencing an unemployment rate in North Carolina of 10.8 percent. Nationally, we are at about 9.9 percent. At a time when the typical family in North Carolina is struggling to meet the obligations at the end of the month—meaning they buy what they need and not what they want—what does the Congress do? The Congress says the hell with our veterans. Let's take money we have designated and put over here for construction and to build cemeteries and to do maintenance for our veterans—let's take $67 million of it and fund this pot of money that even the Secretary has not justified why they need it.

In a tough fiscal climate, tough choices must be made. I say to the President, I say to the chairman of the Appropriations Committee, we have been more than generous to the Philippines, to the Philippine veterans. But, Mr. Chairman, our needs must be met first—the needs of our veterans, the needs of our economy, the needs of the American people, the protection of the fiscal integrity of this country.

America wakes up every day expecting us to change. Every day they wake up thinking: Maybe Congress will recognize the difficult financial situation we are in—only to see us, in a week like this, where we are desperately trying to borrow another $300 billion, and we claim it is an emergency.

This is not an emergency. If we owe it, it can wait. If we owe it, we should pay for it; we should not borrow it. We should not steal it from the VA. We should not steal it from our children and our grandchildren. We should not steal it from the veterans. If we owe it, let's pay for it.

I had wished to call up this amendment. I hope before we end the debate on this supplemental spending bill—but I do not know—I will put it this way: We will, before we end this supplemental spending bill, have an opportunity to vote on this because I will object to leaving before we will. I will not hold the majority or the minority Members to the floor to hear me rant and rave again, I promise the chairman that. I have said my piece. But I hope they will show me the dignity of voting on it. I hope they prove to America this body still has rules and that we follow those rules.

It is a germane amendment. It gets to the heart of one specific piece of it. Two people can disagree on whether it is an emergency. Two people can disagree on whether it is a priority. But I think the one thing we can all agree on is we can never, ever pay our veterans enough. There is no amount of money, there is no service, there is no benefit we can provide that satisfactorily takes the veterans of this country and thanks them appropriately. We are in this institution because of them, and when we do this future generations question why.

Today, I hope my colleagues question why, and when given an opportunity, vote in support of my amendment and strike this from the bill.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Hawaii.

Mr. INOUYE. Madam President, it was not my intention to rise, but after listening to the remarks of the Senator from North Carolina, I felt it obligatory that I say something to clarify the record.

I think it is well that we review a bit of the history of World War II. On July 26, 1941, the President of the United States, Franklin Delano Roosevelt, invited the Filipinos, issued a military order, and said: Join our forces in the Far East. If you do, at the end of the war you will be entitled to, well, apply for citizenship and receive all the benefits of a veteran of the United States. That was a promise made by the President of the United States in March of 1942.

After going through the horror of Bataan and Corregidor, the Congress of the United States passed a law doing exactly that: authorizing Filipinos who wished to be naturalized to do so; and upon naturalization, a receipt of citizenship, they were entitled to all the benefits.

Madam President, 470,000 volunteered, and many died as we know. Most of the men who marched in the Bataan Death March were not Americans; they were Filipinos. But then, when the war ended, we did send one member of the Immigration and Naturalization Service to Manila to take applications for citizenship. Before he settled down, he was recalled back to Washington. The Congress of the United States, in March of 1946, repealed that law, denying the Filipinos and reneging on the promise we made.

When I took the oath as a soldier in World War II, after the oath, the company commander told me there are three words that are precious: ''duty,'' ''honor,'' and ''country.'' Duty to your country, never dishonor the country. Show your love for your country.

Well, in this case, it should be apparent to all of us what we did was not right. We made a promise. We were honor bound to those men who served and got wounded. The emergency is very simple: they are dying by the dozens each day. They are old men. Their average age is 87. They do not have too many months left in their lives. That is why it is in this supplemental bill. If we wait another year, who knows how many will be left?

I just wanted the record to be clear this is a matter of honor. We should uphold our promises. We are complaining to other countries when they violate a little portion of a treaty. This was a promise made by Congress and the President of the United States, and we reneged soon after the war. It is so obvious. Would we have done that to other countries?

Madam President, I am glad it is not coming up for a vote because I think it would be a sad day if we voted it down.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 4253

Ms. COLLINS. Madam President, I left an important markup of the Senate Armed Services Committee because it was my understanding the Senator from California, Mrs. BOXER, wished to debate an amendment I have pending before this body and she wanted to do so at either 3:30 or 3:45. It is now almost a quarter after 4, and I am told the schedule of the Senator from California has changed. I am very eager, having spent considerable time waiting for her on the Senate floor, to return to the markup. So I am going to give my comments now and try to anticipate the arguments my colleague from California, Senator BOXER, will be making in opposition to the amendment I have offered. It is a little difficult to do it that way, but having waited for some time now, I do need to return to the committee's markup.

My bipartisan amendment is a common sense approach to protecting both jobs and children's health, and it has to do with the new regulation the EPA has put into effect as of April 22 that requires mandatory training for anyone who is involved in disturbing or removing lead-based paint.

Let me say I support the intention of this rule. In fact, along with my colleague from Rhode Island, Senator REED, I have done a great deal of work to try to reduce the exposure of our children to lead-based paint. He and I held joint hearings in Rhode Island and Maine because both of our States have housing stocks that are older than the national average and, thus, have considerable lead-based paints. So I understand how important this issue is, and I support the rule.

Unfortunately, the EPA has completely botched the implementation of this rule because of its inexcusably poor planning, and it did not ensure there was an adequate number of trainers to provide the required classes to ensure that contractors understand the requirements of the new rule. That is why it is probably not surprising that there is a long list of cosponsors of my amendment. They include Senators ALEXANDER, INHOFE, BOND, VOINOVICH, SNOWE, BEGICH, GREGG, MURKOWSKI, COBURN, THUNE, CORKER, BROWN of Massachusetts, HUTCHISON, ENZI and BARRASSO, and I appreciate them joining me as cosponsors of this amendment.

What my amendment would do is prohibit the EPA from using funds in this bill to levy fines against contractors under its new lead paint rule through September 30.

Based on what I have seen in Maine, I believe the lion's share of contractors are awaiting EPA's training classes. Unfortunately, while they wait for EPA to deliver this training, they are at risk of being fined up to $37,500 per day, per violation. While I support EPA's rule because we must continue our efforts to safely rid toxic, lead-based paint from our homes, it is simply not fair to put these contractors at risk of these enormous fines when it is EPA's fault that these contractors have not been able to get the training that is required under the new rule.

The fact is there are not enough trainers in place to certify the contractors. Let me give my colleagues an example. In three States—Louisiana, South Dakota, and Wyoming—there are no trainers available. How is that fair? In my State, as of last week, there were only three EPA trainers for the entire State to certify contractors, and as a result just a little more than 10 percent of the State's contractors have been certified.

Well, what does that mean? That means individuals will be affected, not just big contractors. It is your neighborhood painters; plumbers are affected; window replacement and door replacement specialists. It affects a wide variety of individuals involved in home renovations. They are all affected. They can't get the courses. So that means they can't do these jobs. Here is the ironic result. The ironic and tragic result is that lead-based paint remains in these homes. It can't be removed because the contractors aren't certified to remove it. So that is the irony—the delay of the removal of lead-based paint.

In a State such as Tennessee that has just undergone enormous flooding and is going to require extensive renovation and reconstruction, it is going to bring a lot of that work to a halt because for all of Tennessee there are only three EPA-certified trainers. In a State such as Alaska—think how vast Alaska is—there are only three certified trainers as well. In Hawaii, there are two. In Iowa, there is only one for the whole State. In the Presiding Officer's State of New Hampshire, there are only three—again, not nearly enough.

The rule carries a big penalty for contractors who do not get trained. If contractors who perform work in homes built before 1978 are not EPA certified, they face fines of up to $37,500 per violation, per day. Well, in your State and my State, that is more than many of these painters make in a year—in a year. And how unfair it is that it is the EPA's fault that in many cases these contractors are not certified. They are not certified because they simply cannot get the courses.

Let me give my colleagues another example of the EPA's total mishandling of the planning for this rule. The EPA estimated that it only needed to train 1,400 people in my State—1,400 people. In fact, there are more than 20,000 individuals in the State of Maine who require training. The EPA assumes they are part of large firms and that only one person at each firm needs to be certified. That is just not how it works. In my State—indeed, I bet in most rural States—contractors are often one or two people in a shop. They aren't these big firms. The person who did work on my home replacing the windows just a couple of years ago—and I am glad he did it then before this new rule went into effect—works either alone or with one or two other people to assist him. That is very typical.

There is an assumption by the EPA that contractors specialize, that they only do renovations in old homes or they do new home construction. That isn't true at all, particularly not in this economic environment where the housing industry has been so hurt and depressed. The contractors in my State are hustling to do whatever they can in order to get work and to put food on their table. They work in mixed communities with both older and newer homes. It is simply not fair to require them to give up working in older homes, particularly in a State such as mine which has some of the oldest housing in the Nation.

Here is another assertion by the EPA. The EPA asserts that they did plenty of outreach and that contractors should have known they needed to get training before April 22. Clearly, the EPA did not adequately target its outreach campaign. Writing to Home Depot doesn't do it. That is not sufficient outreach. In fact, the classes were all offered in the southern part of my State, very far from people in Aroostook County in northern Maine, for example, where it could be a 5 or 6-hour drive in order to get the necessary training. When we begged the EPA for more trainers and more help, it took them 7 weeks to even respond with some ideas for getting more trainers in Maine, and even then their proposal showed a complete lack of understanding of the geography of the State and the number of people who would need to be trained.

It also was frustrating because they offered some very expensive classes. EPA, for example, offered a class for $200 in Waterville for people living in Aroostook County. That is almost 5 hours away. So not only were they going to be required to pay $200 for the course, but also they would miss 2 days of work traveling back and forth. That is inexcusable, and that is the kind of insensitivity out of Washington that makes people so alienated from government right now. It is exactly why people are so frustrated.

The EPA will point out the dangers of lead poisoning, and I could not agree more that lead poisoning is a terrible problem and that we have to do all we can to protect our children. But poor implementation of this rule serves no one well, and in fact, as I pointed out, it means lead paint is going to remain in homes that otherwise would have been remediated or mitigated.

This rule is very strict. If you disturb just 6 square feet of paint, then you have to comply with the new rule. So it doesn't just apply to a large contractor doing an extensive renovation; it is going to apply if you are a carpenter replacing one window in a home or if you are a plumber who is helping to put in a new bathroom where there is lead paint or if you are a painter who is painting a new room or an old room in a house. So it has very wide application.

How the EPA so misjudged the number of people who would require training is beyond me. This is so frustrating because it did not need to happen this way and cause such hardship for our small business men and women who are struggling if they are in the construction business right now.

That is why my amendment—a bipartisan amendment with considerable support—has been endorsed by the National Federation of Independent Business, our Nation's largest small business advocacy organization. In fact, the NFIB will consider a vote in favor of my amendment as an NFIB key vote for this Congress. I want to make sure my colleagues recognize that.

I wish to read a portion of the letter from NFIB. Again, as NFIB points out:

> The new EPA lead rule applies to virtually any industry affecting home renovation including: Painters, plumbers, window and door installers, carpenters, electricians, and similar specialists . . . NFIB appreciates the intent of the law . . . However, we continue to be concerned that the tight enforcement deadline unfairly punishes contractors who have not been able to become accredited through no fault of their own.

That is the point. In my State, there are literally hundreds of contractors who are on waiting lists to get convenient classes, and some of them have been on these class waiting lists for as long as 2 months. So this is a real problem, and the high penalty for noncompliance is simply unfair.

I would point out that this is the peak construction season, particularly in Northern States such as ours, I say to the Presiding Officer. We can't bring everything to a grinding halt because the EPA did such poor planning in rolling out this new rule.

I also wish to point out that the amendment has been endorsed by the Retail Lumber Dealers Association and by the Window and Door Manufacturers Association. It is endorsed by the National Home Builders Association. It is endorsed by a number of groups representing small businesses involved in the renovation of homes.

Again—because I can just imagine what is going to come about later when my colleague from California, Senator BOXER, comes to the floor—this is not about repealing this rule. This is about giving more time for the training, the mandatory classes to take place before the EPA steps in and wallops these small businesses, these self-employed painters and carpenters and window installers and plumbers, with huge fines that could put them out of business simply because they have not been able to get the mandatory training due to the EPA's poor implementation of this new rule.

I hope my colleagues will support this amendment. It is a modest, commonsense solution to a problem created here in Washington by officials who are simply out of touch with what is going on in home renovation businesses. I hope my colleagues will support it. All it is doing is giving us a few more months to get people trained. I think that it is reasonable. I ask for my colleagues' support.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Daily Digest editor proceeded to call the roll.

Mr. CARDIN. 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. CARDIN. Madam President, later we will be taking up an amendment I filed to the supplemental appropriations bill—amendment No. 4191—and at that time, with an agreement that is reached by all sides, I will not be asking for a vote on that amendment and will be withdrawing it. I wanted to give the reasons why I will be doing so.

I was pleased that President Obama announced today that he would put on hold the lease-sale 220 site that is off the coast of Virginia for offshore drilling. Let me take us back to March, when President Obama made the announcement that certain parts of our coast—previously off limits for offshore drilling—would now be allowed to go forward with drilling. At that time, Senator MIKULSKI and I sent a letter, issued a statement, making it clear we would resist any efforts to drill off of the Virginia coast 50 miles from the mouth of the Chesapeake Bay. We thought the risk of these drillings were too great with the amount of oil that may have been there.

The President's announcement today takes that issue off the table, at least temporarily. The amendment I offered to the supplemental appropriations bill which, of course, would have been in effect during the use of the funds in the supplemental appropriations, would have prevented any of those funds from being used for drilling off the Atlantic or the straits of Florida. The President's announcement has now taken care of my immediate concern that there could have been an effort to move forward on drilling off of the Virginia coast.

I want to go over the pluses and minuses of this, because I think it is an interesting dynamic here as to the benefits that could have been involved in drilling off of the Atlantic coast.

As I said before, the site that was selected is about 50 miles from the mouth of the Chesapeake, about 60 miles from Assateague Island. If there had been a spill, the prevailing winds, over 70 percent of the time, come into the coast or along the coast. That means if we had a spill, that spill would have had dramatic impact on the Chesapeake Bay, on Assateague Island, on the beaches of Maryland, Delaware, New Jersey, Virginia, and probably the east coast of the United States, and could have caused irreparable harm.

The potential oil that is in site 220 matches about 1 week of our Nation's needs. So the risk-benefit here clearly dictates that we not drill along the mid-Atlantic. And I would like to add one additional factor, and that is there has been concern expressed by the Department of Defense as to moving forward with drilling off the shores of Virginia, because the Navy does operations within this area, and it would have been an encroachment on the ability of the Department of Defense to move forward with its needs. In a time of war, we certainly don't want to jeopardize the Defense needs.

So for all those reasons, the Senators from this region—Senator MIKULSKI, myself, Senator LAUTENBERG, and Senator MENENDEZ—have been arguing very strenuously against moving forward, and that is the reason why I filed amendment No. 4191. Fortunately, the President has removed the immediate concern.

Of course, since his March announcement, we have seen the BP Oil episode in the Gulf of Mexico—this horrific event. By the way, the largest spill we had in the United States—the Exxon Valdez accidental spill—was 10.8 million gallons. We now believe the spill in the Gulf of Mexico currently is approaching 40 million gallons. So we are talking about perhaps as much as three to four times the scope of what happened with the Exxon Valdez.

We know the original estimates were wrong. We don't know the exact estimates. Some say it is even larger than that. But we do know that we have now exceeded the Exxon Valdez as far as the amount of oil that has gone into the Gulf of Mexico and, of course, is traveling. It is traveling, as Senator NELSON points out frequently, along the Loop Current that brings it around the Keys up the east coast of the United States. So this is having a catastrophic environmental impact.

As I have said previously on the floor, the permits for the BP Oil site never should have been granted. The exploration plans spelled out very clearly that there was little risk of a spill, and that if they had a spill, it would not affect our coast because they had proven technology to prevent that from happening. Well, they didn't have proven technology. The blowout preventers had failed on numerous occasions previously, and we know that they misrepresented the facts.

The point I am bringing up is that there is a need for significant change in our regulatory system as it relates to going forward with drilling, and the President is recognizing that today. He announced a moratorium on deep water and he also announced a modification on what is happening in the Arctic. I think all that is the right step moving forward. It is the first step forward, to acknowledge we have a problem. But I want to point out that the areas already available for exploration represent over 70 percent of our known reserves—I think over 80 percent on oil. So we are talking about a very little amount in new areas. And we only have less than 3 percent of the world's reserves. We use 25 percent of the world's oil.

As the President said today, what happened in the Gulf of Mexico should be a real awakening call to our Nation to go forward with an energy policy to make us secure. We cannot drill our way out of this problem. We have to develop renewable and alternative energy sources. We need to be serious about conservation, and we need to look at ways that we can be energy secure and improve our economic outlook by creating jobs and also be friendly toward our environment.

For all those reasons, it makes absolutely no sense whatever to move forward with new explorations along the Atlantic coast.

Although I applaud the President's announcement today—it is a step in the right direction—what we need to do is take this site, lease sale 220, off the table permanently and take drilling in the Atlantic permanently off the table. I assure my colleagues I will be looking for a way in which we can speak to this to provide the legislative authority so drilling will not take place off the Atlantic coast. I know Senator FEINSTEIN is also working on amendments to make sure we do not have any new permits issued until we have a regulatory system in place that we all have confidence is independent and will protect the environment and safety of the American people.

The bottom line is that the American people have a right to expect we are going to do what is right for this country, that we are on their side and we are not just going to listen to what the oil industry wants. We are going to make sure we protect our environment and make sure we have an energy policy that makes sense for America.

I think the President took an important step forward today in his announcements concerning taking this lease site, at least for the moment, off the table so we are not threatened by exploration off the Virginia coast. That was the intent of my amendment. I am very pleased he did that. But I hope this will lead this body to pass legislation to permanently protect the Atlantic coast because, frankly, oil spilled anywhere on the Atlantic coast will affect the entire coast.

We need to be mindful that we all are in this together. Let's work on responsible policies for regulation to make sure our regulators are controlling the drilling that is taking place in the proper manner, and let's work together on an energy policy that makes sense for this Nation, that will make us energy secure and provide for America's future.

With that in mind, when the appropriate time comes to consider amendment No. 4191, I want my colleagues to know why I will not be seeking action on that amendment. I believe the President's actions will protect those of us on the east coast of the United States during this immediate time, during 2010, so we will not have any drilling done. I am satisfied that we have been able to protect our communities from drilling. But I urge us to get together to make sure that is permanent and that it is not changed when perhaps people's recollection of what happened in the Gulf of Mexico might not be quite as fresh as it is today, as we see the consequences of this environmental disaster.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I ask to be recognized for 2 minutes.

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

AMENDMENT NO. 4221 WITHDRAWN

Mr. ISAKSON. Madam President, in 1 minute I am going to ask for unanimous consent to withdraw amendment No. 4221, which is currently pending on the legislation before us. After discussions with the staff, it is my understanding that the appropriations included in FEMA in this emergency legislation will, in fact, be available to those States that have been approved for funds that did not get them in the last budget because funds ran out. If that is the case, the State of Georgia would, as my intent was, be recognized to be a beneficiary of that. Therefore, I ask unanimous consent that the Isakson amendment, No. 4221, be withdrawn.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mrs. BOXER. Madam President, what is the order now?

The PRESIDING OFFICER. The Menendez amendment to the Reid amendment is the pending question.

Mrs. BOXER. Madam President, would it be in order for me to speak against the Collins amendment, No. 4253, at this time?

The PRESIDING OFFICER. Yes, it would.

AMENDMENT NO. 4253

Mrs. BOXER. Madam President, I hope we are going to defeat the Collins amendment, No. 4253. Let me explain what the amendment does. I want to describe why it is wrong and why it should be defeated.

The purpose of the Collins amendment is to prohibit the EPA, the Environmental Protection Agency, from ensuring compliance with Federal safeguards to protect pregnant women, infants, and children from lead poisoning related to repair and renovation work involving lead-based paint. I think everyone agrees—I don't think there is any dissent—that lead is very dangerous and lead poisons children. We know it is imperative to remove the lead from the child's environment in order to make sure they do not get brain damage.

This amendment is designed to stop the EPA from enforcing that very important safeguard of removing this lead even if businesses were criminally negligent, even if businesses were willfully breaking the law's safeguards. If children were lead-poisoned and had permanent brain damage as a result of inadequate care being taken to protect the public health, EPA still couldn't enforce this law and get rid of the lead. Even if a child died as a result of severe lead poisoning, this amendment says EPA cannot enforce the law here.

The reason that is given by Senator COLLINS for her amendment to prohibit EPA from enforcing this law to protect our kids from lead is that there are not enough trainers available at EPA to train businesses so they are properly trained to do this work. Later on in this statement, I will show why that is false. But let me say that we ought to know what we are getting into here if we start doing things like this. Whose side are we on, anyway—the side of our families or the side of some businesses that do not want to do what has to be done and are using any excuse to get out of doing what needs to be done, which is to get rid of the lead.

On April 22, 2008, EPA issued a rule requiring the use of lead-safe practices to prevent lead poisoning. The rule requires one contractor in a renovation or repair job site to be certified in lead safe job practices. This one contractor can oversee or conduct the work. The rule covers projects at childcare facilities, schools, and homes that were built before 1978, and any facility that contains lead-based paint.

The Bush administration's EPA promulgated this rule after then-Senator Obama worked to get the Agency to conduct the rulemaking. When the Agency started the rulemaking in 2006, the EPA was a decade behind the schedule Congress had set out. Imagine this: It took an extra 10 years to get this regulation in place, and Senator COLLINS wants to stop the enforcement. This is a bad amendment.

Let me tell you about the public health threats EPA's rule is designed to protect. According to the CDC, the Centers for Disease Control, lead is a dangerous toxin that can harm almost every organ and system in the body, and there is no known safe level of lead in children's blood. About 250,000 U.S. children age 1 to 5 have blood lead levels greater than 10 micrograms of lead per deciliter of blood, the level on which CDC recommends public health intervention. When children have that much lead in their bodies, they may have to undergo painful treatments to quickly reduce their blood lead levels. According to the EPA, lead can damage the nervous system, including the brain, which can harm mental development, and it can cause permanent injury to hearing and visual abilities.

Pregnant women, infants, and children are especially at risk from exposure to lead. Exposure before and during pregnancy can harm prenatal development and cause miscarriages. Large exposure to lead can cause blindness, brain damage, convulsions, and even death. The long-term effects of lead exposure in children include higher school failure rates and reduction in lifetime earnings due to permanent loss of intelligence and other impacts.

Let me tell you, Madam President, this is a proven scientific fact. Exposure to lead in children—in all of us is a real problem but especially in children. If we are not on the side of the children in this Senate, I don't know whose side we are on.

This is a very unwise amendment. According to the EPA, 40 percent of homes have some lead-based paint, and annual renovation, repair, and painting projects may impact 1.4 million children under the age of 6. Lead-based paint repair and renovation activities can significantly increase the risk of elevated blood lead in our children. An EPA study found that children living in residences during renovation and remodeling activities were 30 percent more likely to have elevated blood lead levels than children who lived elsewhere.

States from coast to coast recognize the threat lead poses to infants and children, and they recognize that trained individuals should do lead paint repair and renovation work.

In Maine, the State government recognizes that more than 60 percent of Maine homes may contain lead paint. Home renovations caused over half the childhood lead poisonings in Maine.

This is a statement from the Maine government:

> It is very important that home repairs in an area with lead paint be done safely and correctly. Improper removal of lead paint can poison you and your children.

This is from the State of Maine. They go on to say:

> Every year, hundreds of children in Maine are found to have elevated blood levels. Most children are poisoned by lead hazards in their homes. To protect yourself, your family and any tenants, you can use a licensed lead abatement contractor with workers who have been trained and certified in lead abatement.

In Tennessee, we have a similar warning:

> A common source of high-dose lead exposure to young children is deteriorating paint in homes and buildings.

They say:

> Hire a certified lead-based paint professional to remove lead-based paint from your home.

In Oklahoma, they say:

> Lead poisoning is the No. 1 environmental health hazard for children. Remodeling a house covered in lead paint will create dust and paint chips that can cause lead poisoning if inhaled or ingested. Protect your family from lead during remodeling.

The State says:

> If you hire contractors, make sure they understand the causes of lead poisoning and how to stay safe.

In my home State of California, this is what they say:

> Lead in paint chips, dust, and soil cling to toys, fingers, and other objects children put into their mouths. This is the most common way children get lead poisoning.

Many construction professionals today still do not know about the harmful effects of lead. They may not even know that simple painting, remodeling, or renovation projects can cause lead poisoning.

I think it is very important to note that industry has had years to understand and prepare for this rule. EPA

began the rulemaking in 2006, and contracting organizations and other stakeholders met and talked with the agency. EPA issued a final rule in 2008. The rule did not go into effect until 2010.

EPA got hundreds of comments during the rulemaking process. The agency has joined with the Coalition to End Childhood Lead Poisoning, the U.S. Department of Housing and Urban Development, and the Ad Council to sponsor a nationwide public advertising campaign to raise awareness of the dangers of lead poisoning to children.

Advertisements are being distributed to more than 33,000 media outlets, and workers are already trained and more workers are receiving training in order to ensure compliance with this rule's safeguards.

Let me tell you, Senator COLLINS has stated on this floor that she supports getting the lead out of our homes, that she supports training the contractors. The reason she is stopping this—and make no mistake, stopping this program, which means more lead poisoning in our children—the reason is, she says, there is not enough trainers.

So we called EPA. I spoke to Senator FEINSTEIN about this, and we find no such thing. According to EPA, States across the Nation have more than enough trainers to handle renovation needs at this point in the year. In areas of States that may be harder to get to the agency has traveling trainers who go from State to State giving classes.

EPA has stated the number of renovators needed to implement the rule during the first full year will be achieved in the next 2 months. They will have trained 363,000 renovators. This means training is ahead of schedule. It is ahead of needs since we are only halfway through the year.

As of May 19, there are 223 accredited training providers offering training across the country; 119 are available to travel to provide training in any State—your State, my State, any State. Most of these trainers are offering multiple training courses each week.

As of May 19, 2010, these training providers have offered over 12,000 renovator certification classes and trained 200,000 to 250,000 renovators. Further, 238 additional training providers have applied to become accredited. When approved, these trainers will more than double the Nation's training capacity.

Let's take a look at Maine. According to EPA, this State is estimated to need 1,300 renovators trained in this first year that the Federal rule protecting people from lead poisoning is in effect. As of May 19, Maine has at least 2,686 trained renovators, and there have been 158 classes provided in the State.

Again, there are 119 traveling providers who can travel anywhere in the country to offer courses. EPA told Senator COLLINS' staff, and we found this out from EPA, that the agency would send such trainers to northern Maine to offer classes in Bangor, where staff said there was a need for more trainers.

EPA asked staff for contact information on the individuals who had called the Senator asking for assistance in getting trained. So far EPA has not received a response. In Maine, believe it or not, there have been cancellations of training classes, and 32 classes have been canceled. EPA believes cancellations occur because they are just not enrolling. So to come here and say there are not enough trainers, when her State has canceled training, just does not add up.

EPA's rules already provide exemptions for emergency situations. For example, the recent floods in Tennessee have damaged many homes that must now undergo renovation. On May 14, 2010, the EPA sent the State of Tennessee a letter announcing that emergency exemptions from the agency's lead paint repair and renovation rule applied in 42 counties that had experienced serious flooding. EPA stated:

> It is permissible for individuals to perform immediate activities necessary to protect their property and public health. These actions may include the removal of surfaces containing lead-based paint. Further, these actions need not be performed by a certified individual. To the extent necessary to alleviate the concerns associated with this emergency.

So EPA is being very flexible. They are not saying to people who are trying to recover from a flood: You need to remove the lead. If you need to deal with your home, deal with it. Do not have this added worry. So they are flexible.

Lead hazard information: having a sign to warn people about lead dust hazards, containing lead dust in the work area by using such materials as plastic and tape, lead dust waste handling requirements and certain training and certification requirements. This also has been waived in this Tennessee circumstance.

EPA has said some safeguards still apply to these renovations. But they have exempted them from quite a few. They do not want to see our children exposed. EPA's rules require a simple, commonsense action such as using plastic and tape to control the migration of lead dust, the use of HEPA vacuums that can be purchased at department stores to clean up dust, and a prohibition on certain actions that create extremely serious lead dust hazards. According to EPA, these safeguards add only $35 to the cost of renovation.

I have letters from public health organizations that oppose this amendment. I also have a letter from the EPA explaining why it opposes this amendment. I ask unanimous consent that these be printed in the RECORD at this time.

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

NATIONAL CENTER FOR HEALTHY HOUSING

PROTECT WOMEN, INFANTS AND CHILDREN FROM LEAD POISONING—OPPOSE AMENDMENT 4253

The undersigned organizations and individuals oppose Senator Collins' Amendment 4253 that would put over 1 million children at risk of irreversible lead poisoning. The amendment would prohibit EPA from spending funds under this emergency supplemental appropriations act to enforce the Agency's rule to require work practices that protect people from health threats caused by repair and renovation work on lead-based paint.

Even though the Act does not provide EPA with any funds to enforce these important requirements, it will put every Senator who votes for it on record as being against EPA enforcing safeguards in the Agency's lead repair and renovation rule. These protections are designed to prevent lead poisoning—a devastating disease that has ravaged our education, judicial, and health care system for far too long. The amendment sets a horrible precedent and if it becomes law, it would put the entire federal government on record against enforcing the safeguards, which may have serious consequences.

The Environmental Protection Agency published the ''Renovate Right Rule'' to protect children from unsafe lead exposure caused by renovations in older homes. Public health organizations have been waiting 18 years for this rule to be implemented and now Senator Collins is threatening to roll back decades of lead poisoning prevention work. The rule requires contractors to follow three simple procedures: contain the work area, minimize dust, and clean up thoroughly. This rule closes a major gap in lead poisoning prevention—with only a modest $35 cost increase per renovation job, according to a 2008 Bush Administration analysis.

Please consider the following facts:

Lead remains the most significant environmental health hazard to children, with over 250,000 children impacted. More than one million children are at risk each year when homes are renovated.

Lead is especially toxic for young children. It can cause permanent brain damage, loss of IQ, behavior and memory problems and reduced growth.

Among adults, lead exposure can result in reproductive problems, high blood pressure, nerve disorders and memory problems.

Countless children have suffered the consequences of lead exposure due to the delays in finalizing the rule. Don't vote for an amendment that will put you on record as being against enforcing these important public health protections.

Sincerely,

Rebecca Morley, National Center for Healthy Housing, Columbia, MD; Bill Menrath, Healthy Homes LLC, Cincinnati, OH; Roberta Hazen Aaronson, Childhood Lead Action Project, Providence, RI; Margie Coons, WI Division of Public Health, Madison, WI; Melanie Hudson, Children's Health Forum, Washington, DC; Yanna Lambrindou, Parents for Nontoxic Alternatives, Washington, DC; Linda Kite, Healthy Homes Collaborative, Los Angeles, CA; Shan Magnuson, Santa Rosa, CA; Bay Area Get the Lead Out Coalition, CA; Fresno Interdenominational Refugee Ministries, Fresno, CA; Jose A. Garcia, lnquilinos Unidos, Los Angeles, CA; Rafael Barajas, L.A. Community Legal Center and Educational, Huntington Park, CA; Jim Peralta, Interstate Property Inspections, Inc., Rochester, NY; Nancy Halpern Ibrahim, Esperanza Community Housing Corporation, Los Angeles, CA; Mark Allen, Alameda County Lead Poisoning Prevention Program, Oakland, CA; Martha Arguello, Physicians for Social Responsibility-Los Angeles, CA.

David Reynolds, Facility Manager, Jackson, MS; Larry Gross, Coalition for Economic Survival, Los Angeles, CA; Jang Woo

Nam, Koreatown Immigrant Workers Alliance, Los Angeles, CA; Leann Howell, Riverside, NJ; Richard A. Baker, Baker Environmental Consulting, Inc., Lenexa, KS; Greg Secord, Rebuilding Together, Washington, DC; Kim Foreman, Environmental Health Watch, Cleveland, OH; Sue Gunderson, ClearCorps USA, Minneapolis, MN; J. Perry Brake, American Management Resources Corporation, Fort Myers, FL; Paul Haan, Healthy Homes Coalition of West Michigan, MI; Andrew McLellan, Environmental Education Associates, Buffalo, NY; Ruth Ann, National Coalition to End Childhood Lead Poisoning, Baltimore, MD; Kathy Lauckner, UNLV-Harry Reid Center for Environmental Studies, Las Vegas, NV; Greg Spiegel, Inner City Law Center, Los Angeles, CA; Kent Ackley, RI Lead Techs, East Providence, RI; Elena I. Popp, Los Angeles, CA; Lana Zahn, from Niagara County Childhood Lead Poisoning Program, Lockport, NY.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, May 27, 2010.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: Thank you for your interest in the amendment proposed by Senator Collins that is aimed at eliminating EPA's enforcement of various regulations that are necessary to protect children from lead based paint poisoning. The stated purpose of this amendment is to ''prohibit the imposition of fines and liability under'' various rules on lead paint, including the Lead Renovation, Repair and Painting Rule.

We oppose the amendment on the grounds that it may set a precedent that Congress seeks to prevent enforcement against criminal actions with respect to the lead rules. The amendment could be interpreted as seeking to stop EPA from taking criminal enforcement action against those who knowingly or willfully violate lead rules, even in egregious cases causing lead poisoning in children. A real possibility exists that a contractor who knowingly or willfully ignores the new lead rules during a renovation would not be held accountable under this language. Furthermore, such an amendment could stop EPA from taking enforcement action against those who improperly perform renovations. Such an amendment could pose lead hazards from renovations to an estimated 137,000 children under age 6 and to one million individuals age 6 and older. Finally, there are 250,000 people who have followed the requirements of the law to become trained and certified. The amendment is inequitable because it favors those who were slow to comply.

Overall, the amendment as written could be read as an expression of the intent of Congress to block implementation and enforcement of the rules on lead based paint. If you or your staff have any further questions regarding our concerns on the amendment, please let us know.

Sincerely,

STEPHEN A. OWENS,
Assistant Administrator.

Mrs. BOXER. I think it is important to take a stand for our children. This would completely shut down this important program. It would say it is put on hold, even in the worst circumstances.

The National Center for Healthy Housing sent a letter: ''Protect Women, Infants and Children from Lead Poisoning—Oppose Amendment 4253.''

Let me tell you, it is signed by some important organizations: The National Center for Healthy Housing in Maryland; the Healthy Homes LLC, in Cincinnati, OH; Childhood Lead Action Project in Providence, RI; Division of Public Health in Madison, WI; Children's Health Forum in Washington, DC; Parents for Nontoxic Alternatives, Washington, DC; Healthy Homes Collaborative, Los Angeles; and Bay Area Get the Lead Out Coalition, CA; Fresno Interdenominational Ministries in Fresno. The list goes on and on, many from California.

Interstate Property Inspections, Inc., in Rochester, NY; Alameda County Lead Poisoning Prevention Program, Oakland, CA; Jackson, MI, a facility manager says no to this amendment. The Coalition for Economic Survival says no. Riverside, NJ, we have a letter from them. We have a letter from Kansas. We have more from Cleveland, from Minnesota, from Florida, the American Management Resources Corporation; Healthy Homes Coalition in Michigan; Environmental Education Associates in Buffalo; Coalition to End Childhood Lead Poisoning in Baltimore, MD. Here is an interesting one. The Harry Reid Center for Environmental Studies in Las Vegas, NV. We ought to make sure our leader knows they have taken a stand here.

The Rhode Island Lead Techs, in East Providence, and from Niagara County, Childhood Lead Poisoning Program.

This is where we stand. Finally, we have a rule in place, and it happens to be that President Obama, when he was a Senator, pushed hard for that rule. It made it through, and there has been long lead time. We are ready to go.

Whenever there is a renovation now, and we know there is lead involved, we have to make sure somebody is trained.

EPA has the trainers. The fact that someone stands on the floor of the Senate and says they do not flies in the face of what I read. We know how many we have. We know there are many who would come on and go anyplace across the country. These training sessions take about 8 hours, and then the person is licensed to do this removal.

That is it. Let's not turn back the clock. Let's not go back to the time that we did not know lead caused these problems. Lead is poison. Lead is poison. We are ready to get it out of these old buildings. We are ready to do it, and I do not see why we should turn the clock back to another time and place and say we are doing it for the reason that there are not enough trainers when there are enough trainers.

That is not right. So I will say at this time, I do not see anybody else here. I hope we will vote down the Collins amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

MEMORIAL DAY

Mr. MCCONNELL. Mr. President, on this upcoming final day in May we will observe Memorial Day, and remember the men and women in uniform who have loved this country and given their lives to defend it. Memorial Day is a time to honor their extraordinary sacrifice.

We have a proud tradition of service in my home State of Kentucky, home to Fort Knox, Fort Campbell and many of our brave troops. Just a few days ago soldiers from the 101st Airborne Division, based out of Fort Campbell, cased their colors in preparation for deployment to Afghanistan. Training the local police force will be a major focus for this mission, the fourth deployment for the division headquarters since 9/11.

More than 10,000 men and women from the 101st are already deployed to Afghanistan, and by the end of August that number will reach 20,000.

In addition, about 3,500 soldiers from the Army's 3rd Brigade Combat Team, based at Fort Knox, are preparing to deploy to Afghanistan soon, as are up to about 2,000 Kentucky Army and Air National Guard members.

Five soldiers from the 101st have died in Afghanistan since January. Every soldier preparing to ship out faces that same risk, but that does not deter them from duty and service. They are working to keep their families back home and all Americans safe.

I have met with many of the family members of soldiers, sailors and marines from Kentucky who gave their lives in service. I have let them know that their loved ones will not be forgotten by this country. And they are not forgotten in the U.S. Senate. We are honored to share this land with such brave heroes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I note that we faced a long discussion about a bill that was just passed out of the Armed Services Committee. I, unfortunately, felt compelled to oppose it, but I appreciate working with the Senator from Illinois as we discussed it.

AMENDMENT NO. 4173

Mr. President, I am disappointed that we are going to vote on this emergency supplemental legislation, not having voted on the amendment I offered, along with Senator CLAIRE MCCASKILL of Missouri, my Democratic colleague. It received 59 votes a few weeks ago. It is designed to help contain our rapacious tendency to spend, spend, spend. We give the phrase ''a drunken sailor spending'' a bad name the way we are spending in this Congress.

I had hoped we would get another vote on it. I am disappointed Senator

REID and the leadership on the Democratic side took action to see that a vote would not occur. I called it up very early in the process, and I am disappointed.

The amendment would have made it more difficult to break the budget and allowed more scrutiny for us before we violate it. The emergency supplemental legislation that is before us violates the budget. Every penny of this is spending beyond the budget. It has items that are not what we think of as emergencies.

If our military men and women have a health problem and there is a condition that requires us to take care of them, that takes extra money. We deal with these issues in the Armed Services Committee. But that is not an emergency. Those kinds of things happen all the time. We are allocating $13 billion for an Agent Orange compensation plan that, I have to say, appears to me to not be written very tightly. Anyone who basically served in Vietnam who has heart disease can apparently claim some benefit under it.

I am not saying that is unjustified. It may be. What I will say is, it is not the kind of thing we should use emergency spending for when the country is going in a wrong direction.

We will soon be voting on tax extenders. I want to send a warning out to my colleagues and to the people who are concerned about the state of the American economy. I will quote some comments that have been said recently.

Keith Hennessey, who is former director of the National Economic Council, wrote this:

House Democrats have modified their ''extenders'' bill and appear to be bringing it to the floor for a vote today. Monday's version would have increased the deficit by $134 billion over the next decade. Today's version would increase the deficit by $84 billion over the same timeframe. What hard choices did the leaders make to cut the net deficit impact by $50 billion? None. They simply extended the most expensive provisions for a shorter period of time.

What did they do? There was a complaint they had $134 billion in increased debt, and they were dealing with some issues. They did not pay for them over a long enough time. They just reduced it.

Mr. Hennessey goes on to say:

The new bill extends the unemployment insurance and COBRA health insurance benefits through November 2010, rather than December of 2010 in Monday's version.

They just reduced it one month to save a little money there and make the bill look a little better. Does anyone doubt we will be coming back to extend it further in the future?

Then he goes on to say:

The Medicare ''doctors' fix'' would extend through 2011, instead of through 2013 . . .

Which means that after this year, our physicians will be back here complaining about the impending 21, 22 percent cut in their Medicare payments. They do not get paid enough now. We cannot cut our physicians 20 percent. They are going to quit practicing and stop doing Medicare work.

What did they do when somebody said: You are increasing the debt too much? We will just pass the doctors fix through the end of this year and push it on to the next, instead of doing it through 2013 like they planned.

He goes on to say:

The Congressional Budget Office has to score the amendment as written, so these two provisions are scored as ''saving'' $50 billion relative to the Monday version. But just as it was unreasonable to assume that the increased Medicare spending for doctors would suddenly drop at the end of 2013, it is similarly foolhardy it will stop [in the future]. They are doing in this bill exactly what they did in the two health care bills that were rammed through in March—shifting some of the spending into future legislation to reduce the apparent cost of the current bill.

Will it work again?

Well, we are going to see.

Mr. President, I would just make one more note. An editorial in today's New York Times titled ''Easy Money, Hard Truths'' by famous hedge fund manager David Einhorn, who lives and dies by Wall Street, moving money, keeping up with interest rates, lays out our budget problem very plainly in his column in the New York Times.

Before this recession it appeared that absent action, the government's long-term commitments would become a problem in a few decades. I believe the government response to the recession—

And let me add, that is the extraordinary spending we have done in the last few months—

has created budgetary stress sufficient to bring about the crisis much sooner. Our generation—not our grandchildren's—will have to deal with the consequences.

He goes on to say:

According to the Bank for International Settlements, the United States' structural deficit—the amount of our deficit adjusted for the economic cycle—has increased from 3.1 percent of gross domestic product in 2007 to 9.2 percent in 2010. This does not take into account the very large liabilities the government has taken on by socializing losses in the housing market. We have not seen the bills for bailing out Fannie Mae and Freddie Mac and even more so the Federal Housing Administration, which is issuing government-guaranteed loans to noncreditworthy borrowers on terms easier than anything offered during the housing bubble. Government accounting is done on a cash basis, so promises to pay in the future—whether Social Security benefits or loan guarantees—do not count in the budget until the money goes out the door.

He goes on to say:

A good percentage of the structural increase in the deficit is because last year's ''stimulus'' was not stimulus in the traditional sense. Rather than a one-time injection of spending to replace a cyclical reduction in private demand, the vast majority of the stimulus has been a permanent increase in the base level of government spending—including spending on government jobs.

He goes on to say:

In 2008, according to the Cato Institute, the average Federal civilian salary with benefits was $119,982, compared with $59,909 for the average private sector worker; the disparity has grown enormously over the last decade.

Inflation from our current high-spending culture is problematic as well. According to Einhorn:

Government statistics are about the last place one should look for inflation, as they are designed to not show much. Over the last 35 years, government has changed the way it calculates inflation several times. According to the Web site Shadow Government Statistics, using the pre-1980 method, the Consumer Price Index would be over 9 percent, compared with about 2 percent in the official statistics today.

He goes on to say this:

At what level of government debt and future commitments does government default go from being unthinkable to inevitable, and how does our government think about that risk? I recently posed this question to one of the President's senior economic advisers.

Mr. Einhorn asked him a very tough question: Is a government default on the horizon? Is it unthinkable or now is it on the way to being inevitable? And this is what Mr. Einhorn said the government adviser to President Obama said:

He answered that the government is different from financial institutions because it can print money, and statistically the United States is not as bad off as some countries. For an investor, these promises do not inspire confidence.

So he goes on to warn about the danger of a crisis where the Treasury seeks to get people to buy our Treasury bills, to buy our bonds, and this is what can happen. He said:

In the face of deteriorating market confidence, a rating agency issues an untimely downgrade, setting off a rush of sales by existing bondholders. This has been the experience of many troubled corporations, where downgrades served as the coup de grace. The current upset in the European sovereign debt market is a prequel to what might happen here.

That is today's warning in the New York Times, and we should take it very seriously.

The bill before us is irresponsible. It spends too much, it creates too much debt, and we should not have done it. We did not have to do it. And the bill that is coming up, the tax extenders, is also irresponsible. It spends too much money. We do not have to do it, and we should not do it.

The American people understand this completely. They tell me about it everywhere I go. Are we in denial in this body? Do we think it is just business as usual; that we can just continue to spend, spend, spend, borrow, borrow, borrow, and then presumably we will just print money and pay our debts, deflating our currency, eroding the value for the good and decent people of this country who have worked hard and saved all their lives? This is not good. The American people are right. No wonder our ratings with the public are so low.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Delaware.

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

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

IMBALANCE OF REGULATORY CAPTURE

Mr. KAUFMAN. Mr. President, one of my primary concerns in the debate on

Wall Street reform has been that we should not write legislation that turns all of the major reform proposals over to the regulators. Instead, we should follow on the footsteps of our forebears from the 1930s—those Senators of old who made the tough decisions and wrote bright-line laws which lasted for over 60 years, until they were repealed. I also argued that we should not depend on regulators who had not used powers they already possessed.

Instead, we passed a Senate bill that, in the area of bank regulation, primarily restates existing regulatory powers, provides some general directional authority, and leaves us with the hope that our present regulators will devise and enforce rules that prevent another financial crisis; that a systemic risk council of regulators will be able to detect early warning signals of impending financial instability; that the regulators will impose higher capital standards on systemically significant banks; that the regulators will be able to resolve failing institutions, and so on, and so on, and so on.

Yesterday, a third reason for writing laws and not turning to regulators was brought home to me. It relates to how the Securities and Exchange Commission is studying the incredibly unregulated growth of high-frequency trading.

I am deeply concerned by preliminary reports of the makeup of the SEC panels studying high-frequency trading after the ''flash crash'' of May 6. On that day, the Dow Jones fell almost 1,000 points, temporarily causing a $1 trillion drop in market value. I call on the SEC to make those panels more balanced by adding individuals from outside Wall Street who are truly sincere and knowledgeable about the further actions the SEC may need to take.

In just a few years' time, high-frequency trading has grown from just 30 percent to 70 percent of the daily trading volumes of stocks. These black box computers trade thousands of shares per second across more than 50 market centers with no real transparency—no real transparency—and therefore no effective regulation. If those ingredients—no transparency, no regulation—sound familiar, it might be because those are the same characteristics applied to over-the-counter derivatives.

My concern about the opaque and unregulated nature of high-frequency trading led me to write to SEC Chair Mary Schapiro last August 21, 2009, calling for a comprehensive review of market structure issues. I wrote:

> The current market structure appears to be the consequence of regulatory structures designed to increase efficiency and thereby provide the greatest benefits to the highest volume traders. The implications of the current system for buy-and-hold investors have not been the subject of a thorough analysis. I believe the SEC's rules have effectively placed ''increased liquidity'' as a value above fair execution of trades for all investors.

On September 10, Chair Schapiro responded, saying she recognized the importance of standing up for the interests of long-term investors and would undertake a comprehensive review of market structure issues.

Because I had heard these concerns raised by credible voices, in a speech on September 14, 2009, I predicted some of the events of last May 6. At that time, I said:

> Unlike specialists and traditional market-makers that are regulated, some of these new high-frequency traders are unregulated, though they are acting in a market-maker capacity. If we experience another shock to the financial system, will this new, and dominant, type of pseudo market maker act in the interest of the markets when we really need them? Will they step up and maintain a two-sided market, or will they simply shut off the machines and walk away? Even worse, will they seek even further profit and exacerbate the downside?

On October 28, Senator JACK REED convened a hearing in the securities subcommittee on these issues. He graciously asked me to testify at the hearing, where I said in my first statement:

> First, we must avoid systemic risk to the markets. Our recent history teaches us that when markets develop too rapidly—when they are not transparent, effectively regulated or fair—a breakdown can trigger a disaster.

On November 20, I sent a letter to Chairman Schapiro summarizing some of the hearing testimony and called on the Commission to acted quickly to ''tag'' high-frequency traders and address the systemic risk they pose. On December 3, Chairman Schapiro responded to my letter and wrote that the SEC would issue a concept release in January and put forth two rule proposals that would, respectively, impose tagging and disclosure requirements on high-frequency traders and address the risk of naked access arrangements.

In January, the SEC did indeed issue a concept release, as well as a proposed rule banning naked access arrangements. Unfortunately, it was months later—April 14—before the SEC finally issued the ''large trader'' rule requiring tagging of high-frequency traders. In that proposed rule, the SEC noted that the current data collection system is inadequate to recreate market events and unusual trading activity.

Now think about this. This was back on April 14, before the May 6 thing, and what she said was: In the proposed rule, the SEC noted that the current data collection system is inadequate to recreate market events and unusual trading activity. Is there any question why we don't know yet what happened on May 6?

Then, on May 6, the disaster struck that I and others were worried about. For 20 minutes, our stock market did not perform its central function: discovering prices by balancing buyers and sellers. And as the SEC has noted—both before and after the ''flash crash''—it indeed does not have the data to discover easily the causes of the market meltdown.

It is true that the SEC and CFTC have gone into overdrive since May 6. Indeed, the staffs and Commissioners of both agencies have worked heroically around the clock to try to recreate and study the unusual trading activity of that day. They have kicked into high gear and formed an advisory commission. They have quickly come together to propose two more possible rules: an industry-wide circuit breaker so that if we ever again have another market ''flash crash,'' we won't see absurd prices for some of our Nation's proudest company stocks, and also a long overdue proposal to have a consolidated audit trail across market centers that will finally provide regulators with access to the information they need to police manipulation, understand trading practices, and reconstruct unusual market activity in a timely manner.

After weeks of helpful action by the SEC—when the industry itself was helping the agencies to find band-aid solutions—now is not the time to see the SEC continue with rulemaking by Wall Street consensus.

We may need further action, probably against the interests of those who benefit from the current market design.

Further action only through industry-consensus is a prescription for no change.

This all brings me to why I became so concerned yesterday. As part of the Commission's ongoing market structure review, the SEC has decided to hold a roundtable discussion on June 2—good idea.

I have learned preliminary reports about the make-up of the high frequency trader panel.

Based on those reports, the panel is dramatically out of balance.

It appears as though it was chosen primarily to hear testimony that reinforces the top-line defenses of the current market structure—that high frequency trading provides liquidity and reduces spreads—rather than what it should be doing, a deep dive into the problems that caused severe market dislocation on May 6 and damaged our market's credibility.

I have called on the SEC to add more participants to give the panels some semblance of balance.

Frankly, I find the preliminary reports to be so stacked in favor of the entrenched money that has caused the very problems we seek to address that the panel itself stands as a symbolic failure of the regulators and regulatory system—that is, with the exception of a few brave souls who have been invited to critique the conventional industry wisdom.

Let me read from the comment letters and statements of five of the expected participants.

Not surprisingly, in comments to the SEC and members the industry made prior to the unusual volatility of May 6, each of these five participants reported that—contrary to the concerns I and others had expressed—they think the markets are running as smoothly as ever.

One of the expected panelists wrote:

[O]ver the past 18 months—since the height of the financial crisis—the Commission has been very active with rule making proposals. Nearly all of the issues that may have contributed to diminishing investor confidence have been addressed by Commission rulemaking.

Ironic, after what happened on May 6.

That panelist also wrote:

We believe that the current national market system is performing extremely well. For instance, the performance during the 2008 financial crisis suggests that our equity markets are resilient and robust even during times of stress and dislocation.

Another expected participant wrote in an email sent widely that his exchange—

doesn't believe the equities markets are broken.

To the contrary, we would argue that the U.S. equity markets were a shining model of reliability and healthy function during what some are calling one of the most challenging and difficult times in recent market history.

Another expected participant wrote:

Implementing any type of regulation that would limit the tools or the effectiveness of automation available for use by any class of investor in the name of ''fairness'' would turn back the clock on the U.S. Equity market and undo years of innovation and investment.

That is an interesting comment, because I have always believed that fairness was the hallmark and number one priority of U.S. markets. That is what people say. That is why people come to America. They don't come to invest in some casino game. Liquidity is important, but the key thing for our markets to be credible is fairness.

Another expected panelist sounded a similar note in a comment letter filed before May 6.

All market regulation should be evaluated with respect to its impact on the liquidity and efficiency of equity markets for the benefit of investors . . . For example, certain short-term traders and high frequency traders provide liquidity to the markets. Although some of these short-term traders may differ at times in their goals and overall position vis-a-vis other types of investors, we believe, on the whole, that the liquidity they provide is beneficial to the markets.

I agree with that statement. Liquidity is vital to the strength and stability of our markets.

But on May 6, liquidity vanished, as some of the short-term traders left the marketplace. And for those who didn't, we learned that the liquidity they provide was about 1/100th of an inch deep.

Finally, another panelist co-signed a letter stating:

We believe that any assessment of the current market structure or the impacts of 'high frequency trading' should begin with the recognition that by virtually all measures, the quality of the markets has never been better . . . .

The equity markets have also proven to be remarkably resilient. Despite the significant stresses that occurred during the recent financial crisis, U.S. equity markets remained open, liquid and efficient every day, while other less competitive and less transparent markets failed.

The SEC has picked one voice for the panel—Sal Arnuk of Themis Trading—who has been a vocal and intelligent critic of high frequency trading.

He has valiantly raised questions about market structure and the trading advantages that high frequency traders enjoy, but he is being asked to go up against six Wall Street insiders who will no doubt be primed to argue against his position.

People wonder why Americans have such little faith in Washington, DC. Talk about a stacked deck.

I am particularly concerned by the upcoming SEC roundtable on high frequency trading because it is reminiscent of the one that the SEC held last September on ''naked'' short selling.

Naked short selling occurs when a trader sells a financial instrument short without first borrowing it or even ensuring it can be borrowed. Just a reason on faith that it may be borrowed. What this means is traders can sell something they do not own or have not borrowed. Americans understand you cannot sell something you don't have.

After the SEC's repeal of the 70-year uptick rule in 2007, abusive short selling facilitated the sort of self-fulfilling bear raids on stocks that we saw during the financial crisis.

Since coming to office last year, I have highlighted this serious problem through a series of speeches and letters to the SEC. Along with seven other Senators, of both parties, I also called for pre-borrow requirements and centralized ''hard locate'' system solutions.

In response to those concerns, the SEC held a roundtable last September to examine these proposals.

Unfortunately, like the panel coming up, the panel was stacked with industry representatives even though the industry had done virtually nothing to address what had become a glaring problem.

Listen to the lineup: Goldman Sachs, State Street, and the Depository Trust & Clearing Corporation DTCC, among others, participated.

Not surprisingly, these panelists were resistant to the hard-locate requirement and other serious solutions, even while they generally acknowledged that there are bad actors who engage in naked short selling and don't comply with the current locate system.

DTCC even backed away from discussing the very proposal it had laid before the U.S. Senate.

I fear that an industry-stacked panel in the upcoming roundtable on high frequency trading will be more of the same and will once again dismiss fundamental reforms, ultimately leaving retail and long-term investors with half-measures or none at all.

Why? Because repeatedly we see that regulators are dependent almost exclusively for the information and evidence they receive about market problems on the very market participants they are supposed to be confronting about needed changes.

This is as true in other agencies—we filed the papers just last month and you can see it—like the agency charged with the oversight of oil drilling—as it is at the SEC.

The regulators are surrounded—indeed they consciously choose to surround themselves—by an echo chamber of industry players who are making literally billions of dollars under the current system.

Who speaks to the regulators on behalf of the average investor?

Who outside of the industry itself has access to the data that only the industry controls?

Who other than the market players who have invested so much of their capital into the very systems that profit and serve their own interests has the analytical capability to lead the SEC in a different direction?

We must have evidenced-based rules in our system, we are told.

But when all the evidence comes from Wall Street, who is going to stop Wall Street from once again pulling the wool over the SEC's eyes?

The events of May 6 demonstrate that technological developments have outpaced regulatory understanding. If we are to ensure our markets are safe from future failures—because the markets did fail their primary function on May 6th—regulators must catch up immediately.

Competition is critical in our markets and has led to many positive developments. But with competition, we also need good regulation. Just like we need referees on the field who will blow their whistles when the game becomes rigged. In football, we don't let the players make up the rules during the game.

So, we need action from our regulators, not negotiation. We need independent leadership by the SEC, not management by consensus with Wall Street.

Again, I call on the SEC to rebalance these panels. The Commission will never be able to catch up if it hears mostly from those who will fight to maintain the status quo.

The SEC must hear from those who speak for long-term investors and others who use our capital markets, not just from those who profit from high frequency trading.

The American people deserve no less.

I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). The Senator from South Carolina.

Mr. DEMINT. Mr. President, because I was not allowed to offer my amendment as part of the regular order, in a moment I will move to suspend the rules to offer my amendment that will set a deadline to complete 700 miles of double layer fencing on our Southwest border, as is required by current law.

If any Member of the Senate stood up today and said that we should not seal the oil leak in the gulf until we have a comprehensive plan to clean it up, we would all say that is absurd. Certainly we need to seal that leak as quickly as possible to minimize the cleanup later.

But that is exactly the kind of logic the President and my Democratic colleagues are using when it comes to immigration. They are insisting we will not secure our borders until Republicans agree to a comprehensive plan with some form of amnesty and road to citizenship for those who have come here illegally. This is a debate we have had before and it was not settled here as much as it was out across America.

Americans have said: Secure the border first. The big immigration bill we were trying to pass in 2006 failed because Americans finally convinced Senators that our first job is to secure the border; otherwise, any immigration policy is irrelevant.

At that time we made a promise to the American people and passed a law that we would build 700 miles of double layer fencing in areas where pedestrian traffic is the biggest problem. We have seen that where that has been implemented it has been effective. But, unfortunately, since 2006, even though we were promised this could be done in a year or two, only 34 miles of double layer fencing has been built since we passed this law. In other words, the Federal Government is ignoring its own law at the peril of the citizens in Arizona, Texas, and those all over the country. By not keeping our promises, by not enforcing the law, we have created devastation and war on our southern border with Mexico.

Thousands of Mexicans have been killed. We encouraged drug cartels all over the world to ship their goods through our borders. Arms trafficking, human trafficking—we have mass chaos on our border because we will not do what we know works.

The President is saying we have done over 90 percent of the fencing that we promised, but this is the virtual fencing that the chief of border security has said has been a complete failure. There are only 34 miles of the 700 miles that we promised our country and put into law.

My amendment does not make new law. It just sets a deadline, that the fence we promised will be completed within the next year.

MOTION TO SUSPEND

Mr. President, I move to suspend the provisions of rule XXII, paragraph 2, including germaneness requirements for the purpose of proposing and considering my amendment, No. 4177.

I ask for the yeas and nays and reserve the remainder of my time.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent it be in order for Senator DEMINT to be recognized. That has already happened so we don't have to worry about that because he was recognized, because he has already moved to suspend Senate rule XXII.

I appreciate his understanding and finishing his remarks as quickly as he did. The amendment he is offering is in regard to border fence completion. I ask the Senator, does he still need time to speak, additional time?

Mr. DEMINT. If someone speaks against it, I will reserve 1 minute to respond.

Mr. REID. I would like the agreement to indicate if someone speaks against the DeMint amendment, that he be entitled to equal time in opposition thereto.

I further ask unanimous consent there be no amendment in order to the DeMint motion to suspend; that upon the use or yielding back of the time, the Senate then proceed to vote with respect to the DeMint motion to suspend; that if the DeMint motion to suspend is not agreed to, then no further amendment or motion on this subject of the DeMint motion be in order; that upon disposition of the DeMint motion, the Senate resume consideration of the Collins amendment, No. 4253, and there be 2 minutes of debate remaining prior to a vote in relation thereto, with the time equally divided and controlled between Senators BOXER and COLLINS or their designees, with no amendment in order to the Collins amendment; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Collins amendment; that upon disposition of the Collins amendment, the Senate then consider the Burr amendment, No. 4273, with an Inouye side-by-side amendment No. 4299; that the amendments be debated concurrently for 8 minutes, equally divided and controlled between Senators INOUYE and BURR or their designees; that upon the use or yielding back of time, the Senate proceed to vote with respect to Inouye amendment No. 4299 to be followed by a vote in relation to Burr amendment No. 4273; that upon disposition of these two amendments, all remaining pending amendments be withdrawn, with no further amendments in order except a managers' amendment which has been cleared by the managers and leaders; and if offered, the amendment be considered and agreed to and the motion to reconsider be laid upon the table; that all postcloture time be yielded back with no further intervening action or debate; the substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time, and the Senate then proceed to vote on passage of the bill, as amended, without further intervening action or debate; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, with the Appropriations Committee appointed as conferees; provided further that the cloture motion with respect to the bill be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, if I can just say, before anyone says anything, if we complete this, these will be all of the votes for the evening and the week. We are waiting for the House to do action on the extenders package, a jobs bill. The latest information I have is that they will not complete that until sometime late this evening. I have spoken to the Republican leader on several occasions. We are going to have several days to take a look at this because I understand it is going to come to us in pieces, not all as one bill.

We will take a look at that. We will start to work on that the Monday we get back. We are going to work to have a vote on that Monday we get back. I think it is June 7. We do not know what the vote will be on, but we will have it on probably a nomination. We are trying to figure out what that will be. I do not think we will be ready to start any actual voting on the so-called extenders package.

The Republican leader and I have talked about that. There are certain amendments that people have indicated they would like to offer to that. I think, frankly, it works better to allow people to offer amendments. There is no reason to move forward on any procedural effort to curtail that at this time.

The next work period is 4 weeks. That is all we have. We have so many things to do, and we are going to do our best to get the extenders done. We have a small business jobs matter that we need to move to. It is so important for our country's economy. We have talked about this for months now.

We have a bipartisan food safety bill that we need to do. That would be a good time to do that. And we have a number of other issues we will try our best to work through as quickly as we can. I appreciate everyone's cooperation this week. This gives great relief to the Pentagon. The House, that is supposed to complete their work on this bill today, did not.

So that is something we will have to take a look at, what they do, and get the conference completed as quickly as we can.

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

The DeMint motion to suspend the rules is pending.

The majority leader.

Mr. REID. Mr. President, pending what the House does, there will be some unanimous consent requests offered on both sides as I understand. But everyone should be aware of that later this evening maybe.

I do not have anyone here to speak on the DeMint amendment.

The PRESIDING OFFICER. The Senator from South Carolina has asked for the yeas and nays. Is there a sufficient second? There appears to be. If there is no further debate, the question is on agreeing to the DeMint motion to suspend the rules.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

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

The yeas and nays resulted—yeas 45, nays 52, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—45

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Baucus	Ensign	McConnell
Bayh	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Bond	Grassley	Risch
Brown (MA)	Gregg	Roberts
Brownback	Hatch	Rockefeller
Bunning	Hutchison	Sessions
Burr	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Tester
Collins	Kyl	Thune
Corker	Landrieu	Vitter
Cornyn	LeMieux	Wicker

NAYS—52

Akaka	Franken	Nelson (FL)
Begich	Gillibrand	Pryor
Bennet	Hagan	Reed
Bingaman	Harkin	Reid
Boxer	Inouye	Sanders
Brown (OH)	Johnson	Schumer
Burris	Kaufman	Shaheen
Byrd	Kerry	Specter
Cantwell	Klobuchar	Stabenow
Cardin	Kohl	Udall (CO)
Carper	Lautenberg	Udall (NM)
Casey	Leahy	Voinovich
Conrad	Levin	Warner
Dodd	Lieberman	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feingold	Mikulski	
Feinstein	Murray	

NOT VOTING—3

Chambliss	Lincoln	McCaskill

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 52. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the motion is rejected.

AMENDMENT NO. 4253

Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4253, offered by the Senator from Maine.

The Senator from Maine.

Ms. COLLINS. Mr. President, I ask that I be notified when I have 30 seconds remaining, which I am going to yield to the Senator from Tennessee.

Mr. President, the Senator from California has misrepresented what my amendment would do. It does not repeal or change the requirement that EPA has for people to be trained before they remove lead-based paint. But the fact is, the EPA rolled out this new proposal, this new requirement, without having the training courses available. It is not fair to slap huge fines on contractors when it is the EPA's fault the classes have not been available. So this amendment just delays those fines until September 30 to allow more time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, the worst natural disaster since the President took office was the recent flooding in Tennessee. There are 13,000 painters, plumbers, carpenters in Nashville alone, who have 11,000 structures to work on. They will get fined up to $37,500 a day if they disturb six square feet of lead paint in a home unless they get this certificate, and there are only three EPA trainers in the entire State of Tennessee to train them. This is making it harder and more expensive for people to get their homes fixed after the flood. Senator COLLINS has a reasonable amendment to give them until September to get their certification. Earlier today my colleague on the Environment and Public Works Committee, Senator BOXER, said that the EPA had granted a waiver to Tennessee because of the President's disaster declaration for 45 counties. Well that is true. However, the waiver means that if your basement was flooded—and there was lead paint—then you could bulldoze the house but not repair the basement. That's not the kind of relief we were looking for in Tennessee. Thank you, Mr. President, and I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The time has expired.

The Senator from California.

Mrs. BOXER. Mr. President, first, let me say to the Senator from Tennessee, in his State all the counties that had flooding are exempt from this rule. I have the letter from the EPA, and I spoke with them about it.

Secondly, let us not go back on this important issue. Lead is very dangerous, particularly for pregnant women, infants, and children. This amendment would stop any funds in this bill from being used to enforce the EPA's lead paint renovation program, which was put into place by President Bush's EPA.

There is a training program, and my friend from Maine says there are not enough trainers. There are so many trainers that there are 119 of them who are ready to travel to each and every State, and already they are ahead of the training. Mr. President, 360,000 people will be trained in the next 2 months.

What this amendment does is rewards the contractors who did not get the training and it hurts the others. I urge a strong ''no'' vote.

Mrs. FEINSTEIN. Mr. President, I rise in opposition to Amendment No. 4253, which would prevent the U.S. Environmental Protection Agency from enforcing its lead paint renovation rule.

As we all know, lead poisoning can lead to learning and behavioral disorders so it is absolutely vital that all precautions are taken to protect children from exposure to lead paint. EPA issued the Lead Paint Renovation Rule because more than one million of America's children are still being poisoned by lead-based paint in their homes.

This new rule, which was finalized on April 22nd of this year, requires that contractors receive lead paint abatement training and certification from EPA to do work in certain facilities like homes, schools and day care centers.

I certainly appreciate the concerns that Senator COLLINS, Senator ALEXANDER and other members have raised on behalf of contractors who have had difficulty getting access to their required training particularly in States like Tennessee that have recently experienced natural disasters.

Two weeks ago when the Committee marked up this bill, I committed to Senators COLLINS and ALEXANDER that my staff and I would work with them, and with EPA, to see if their concerns could be addressed.

Our staffs worked with EPA for several days, but unfortunately, we were not able to come to an agreement regarding an administrative solution to this problem. However, I want to emphasize that EPA has gotten the message that Members are concerned, and they are taking steps to improve the situation.

EPA had already indicated in an April 20, 2010 memorandum that it does not plan to take enforcement actions against firms who applied for certification before the rule took effect on April 22nd and are just waiting for their paperwork to be approved.

Now they are focusing on making more training opportunities available. An estimated 250,000 contractors have already been trained, and EPA has committed to help make additional training classes available in under-represented areas and areas affected by natural disasters so that contractors in those areas aren't unduly impacted by this rule.

EPA is also working to increase the number of training providers. As of May 19th, there were 223 accredited providers offering lead paint abatement training across the country, including 119 providers that travel to multiple States.

EPA tells me that 238 additional training providers have also applied to become accredited. When approved, these trainers will more than double the nation's training capacity.

I understand that some of my colleagues continue to be concerned that EPA still has not done enough. However, this amendment is not the solution we are looking for.

Supporters of this amendment have portrayed it as a common-sense solution that simply allows contractors additional time to get lead paint abatement training required by the rule.

In reality, passing this amendment would put the United States Senate on record as supporting efforts to prevent EPA from fining those who knowingly violate the provisions of the rule—even if those actions result in lead poisoning of children.

A contractor who willfully takes no precautions to contain or confine lead contaminated paint chips would be given a reprieve. I am also concerned that this amendment could excuse renovators from complying with the most basic containment and cleanup measures.

I appreciate the concerns that my colleagues have raised. But this amendment is simply a bridge too far. Loosening protections against childhood lead poisoning is the wrong message to send.

That is why the Administrator of the Environmental Protection Agency, Lisa Jackson, and the Chairman of the Committee on the Environment and Public Works, Senator BOXER, oppose this amendment. I urge my colleagues to join me in opposing this amendment as well.

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

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask unanimous consent that the remaining votes in this sequence be limited to 10 minutes each.

The PRESIDING OFFICER. Is this objection?

Without objection, it is so ordered.

The question is on agreeing to the Collins amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

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

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—60

Alexander	DeMint	Lugar
Barrasso	Dodd	McCain
Baucus	Dorgan	McConnell
Begich	Ensign	Murkowski
Bennet	Enzi	Nelson (NE)
Bennett	Graham	Pryor
Bingaman	Grassley	Risch
Bond	Gregg	Roberts
Brown (MA)	Hagan	Rockefeller
Brownback	Hatch	Sessions
Bunning	Hutchison	Shaheen
Burr	Inhofe	Shelby
Byrd	Isakson	Snowe
Coburn	Johanns	Tester
Cochran	Johnson	Thune
Collins	Kohl	Udall (CO)
Conrad	Kyl	Vitter
Corker	Landrieu	Voinovich
Cornyn	LeMieux	Webb
Crapo	Lieberman	Wicker

NAYS—37

Akaka	Gillibrand	Nelson (FL)
Bayh	Harkin	Reed
Boxer	Inouye	Reid
Brown (OH)	Kaufman	Sanders
Burris	Kerry	Schumer
Cantwell	Klobuchar	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Udall (NM)
Casey	Levin	Warner
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

NOT VOTING—3

Chambliss	Lincoln	McCaskill

The amendment (No. 4253) was agreed to.

The PRESIDING OFFICER. Under the previous order, there will be 8 minutes of debate equally divided to run concurrently on amendment No. 4273 to be offered by the Senator from North Carolina and amendment No. 4299 to be offered by the Senator from Hawaii.

The Senator from Hawaii.

AMENDMENTS NOS. 4299 AND 4273

Mr. INOUYE. Mr. President, on May 7, Secretary Shinseki sent a letter informing me that the Department underestimated the number of eligible Filipino veterans, especially those who have become U.S. citizens, in calculating the amount needed for this program. More than 42,000 applications were received. Based on the actual applications received before the deadline, the Department has recalculated the estimates and identified a shortfall of $67 million.

The provision included in this supplemental does not cost a dime. It simply allows any savings, currently unobligated and not assigned to any ongoing project, which the VA realizes is the result of a favorable contract environment, to be transferred to the Filipino Veterans Equity Compensation Fund and/or retained for authorized major medical facility projects of the Department of Veterans Affairs. It does not mandate this transfer. It simply gives the VA the flexibility should the Department want to transfer the funds for these purposes.

Just a reminder: In July of 1941 President Roosevelt invited the Filipinos to volunteer and join the American forces, and 470,000 volunteered. In March of 1942 this Congress passed a law stating that Filipinos who volunteered may, after the war, apply for citizenship and receive all the benefits of American citizenship. In March of 1946 this Congress reneged and repealed that law.

We must fulfill this commitment the country made to the Filipino veterans who fought so bravely under our command because to deny the VA authority to transfer to this account would renege on our commitment and would send a dangerous signal that the Senate may not honor past and future commitments to veterans.

Is the amendment up for consideration?

The PRESIDING OFFICER. It needs to be called up.

AMENDMENT NO. 4299

Mr. INOUYE. Mr. President, I ask unanimous consent to call up my amendment No. 4299.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 4299.

The amendment is as follows:

(Purpose: To allow unobligated balances in the Construction, Major Projects account to be utilized for major medical facility projects of the Department of Veterans Affairs otherwise authorized by law)

On page 41, line 14, insert before the colon the following: ''or may be retained in the 'Construction, Major Projects' account and used by the Secretary of Veterans Affairs for such major medical facility projects (as defined under section 8104(a) of title 38, United States Code) that have been authorized by law as the Secretary considers appropriate''.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

Who yields time?

The Senator from North Carolina.

AMENDMENT NO. 4273

Mr. BURR. Mr. President, I ask unanimous consent to call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. BURR] proposes an amendment numbered 4273.

Mr. BURR. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike section 901, relating to the transfer of amounts to the Filipino Veterans Equity Compensation Fund)

On page 41, strike lines 10 through 24.

Mr. BURR. Mr. President, I have deep respect for the chairman of the Appropriations Committee. He said earlier this afternoon that President Roosevelt made a promise. I can tell my colleagues I had my staff go to the Roosevelt Library. We didn't just leave it up to the study done by the Senate. We can find no promise—no promise by President Roosevelt, no promise by General MacArthur, no promise by individuals who were intricately involved in the commitments at the end of the Second World War in the Pacific. In fact, we did take care of those Filipinos who served as scouts for the U.S. services, and they got full VA benefits.

What we are talking about—and this is not the purpose of this discussion—is a continuation, an addition to the Filipino equity fund. Two years ago we passed legislation creating that fund. We appropriated $198 million, and we allowed 1 year from the enactment for any Filipino who wanted to claim to, in fact, put in an application. That deadline was February 16. At the end of December, my staff talked to the VA, and they had obligated under $100 million.

The legislation at the time required the Secretary of the VA to submit in the President's budget this year a detailed report of the number of applications and, more importantly, a breakdown of how much money and to whom it went. That was not supplied in the President's submission to Congress.

When the President's budget came, the President's budget said they needed $188 million, $10 million short of the $198 million we had already appropriated. Now out of the clear blue sky, Secretary Shinseki sent a letter to the Appropriations Committee chairman and said: We need another $67 million. Well, the deadline was February 16, before the President's budget was constructed. There was no explanation as to what it is going to be used for and no understanding of to whom this money goes.

I want my colleagues to listen. What my amendment does is strike this from the bill. What Senator INOUYE's amendment does is give the Secretary the option to leave the money where it is or to divert the money to the Philippine equity fund. I will assure my colleagues the Secretary will divert it. Where does it come from? It comes from already appropriated money that is in the construction fund at the VA for hospitals, for outpatient clinics, for national cemeteries, and for the maintenance of the facilities for our veterans.

This is wrong. If there is an obligation we have to keep, it is to our veterans—ones who rely on the best facilities to deliver care to them.

Once again, I ask my colleagues to vote against the Inouye amendment and vote for the Burr amendment.

I thank the Chair.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

Is there further debate on the amendment?

If not, the question is on agreeing to the Inouye amendment No. 4299.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 60, nays 35, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—60

Akaka	Conrad	Landrieu
Baucus	Dodd	Lautenberg
Bayh	Dorgan	Leahy
Begich	Durbin	Levin
Bennet	Feingold	Lieberman
Bingaman	Feinstein	Menendez
Bond	Franken	Merkley
Boxer	Gillibrand	Mikulski
Brown (OH)	Gregg	Murkowski
Burris	Harkin	Murray
Byrd	Inouye	Nelson (NE)
Cantwell	Johnson	Nelson (FL)
Cardin	Kaufman	Pryor
Carper	Kerry	Reed
Casey	Klobuchar	Reid
Cochran	Kohl	Rockefeller
Sanders	Stabenow	Warner
Schumer	Tester	Webb
Shaheen	Udall (CO)	Whitehouse
Specter	Udall (NM)	Wyden

NAYS—35

Alexander	DeMint	Lugar
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Hagan	Sessions
Burr	Hatch	Shelby
Coburn	Inhofe	Snowe
Collins	Isakson	Thune
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker
Crapo	LeMieux	

NOT VOTING—5

Chambliss	Lincoln	Vitter
Hutchison	McCaskill	

The amendment (No. 4299) was agreed to.

VOTE ON AMENDMENT NO. 4273

The PRESIDING OFFICER. Under previous order, the question is on agreeing to amendment No. 4273.

The yeas and nays were previously ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Louisiana (Mr. VITTER), and the Senator from Texas (Mrs. HUTCHISON).

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

The result was announced—yeas 37, nays 58, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—37

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Nelson (NE)
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Hagan	Sessions
Burr	Hatch	Shelby
Coburn	Inhofe	Snowe
Collins	Isakson	Thune
Conrad	Johanns	Voinovich
Corker	Kyl	Wicker
Cornyn	LeMieux	
Crapo	Lugar	

NAYS—58

Akaka	Feinstein	Murray
Baucus	Franken	Nelson (FL)
Bayh	Gillibrand	Pryor
Begich	Gregg	Reed
Bennet	Harkin	Reid
Bingaman	Inouye	Rockefeller
Bond	Johnson	Sanders
Boxer	Kaufman	Schumer
Brown (OH)	Kerry	Shaheen
Burris	Klobuchar	Specter
Byrd	Kohl	Stabenow
Cantwell	Landrieu	Tester
Cardin	Lautenberg	Udall (CO)
Carper	Leahy	Udall (NM)
Casey	Levin	Warner
Cochran	Lieberman	Webb
Dodd	Menendez	Whitehouse
Dorgan	Merkley	Wyden
Durbin	Mikulski	
Feingold	Murkowski	

NOT VOTING—5

Chambliss	Lincoln	Vitter
Hutchison	McCaskill	

The amendment (No. 4273) was rejected.

AMENDMENT NO. 4184, AS MODIFIED, AND AMENDMENT NO. 4213, AS MODIFIED

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask unanimous consent that the previous order be modified to provide that amendments Nos. 4184, as modified, and 4213 as modified not be withdrawn.

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

Under the previous order, all remaining pending amendments to the substitute are withdrawn, except amendments 4184, as modified, and 4213, as modified, offered by the Senator from Louisiana.

The Senator from Hawaii.

AMENDMENTS NOS. 4178, 4205, 4217, 4222, 4224, 4245, 4246, 4249, 4260, 4280, 4184, AS FURTHER MODIFIED, 4259, 4255, 4248, 4200, 4213, AS MODIFIED, 4251, AS FURTHER MODIFIED, AND 4287, AS MODIFIED

Mr. INOUYE. Pursuant to the order, I call up the managers' package, which is at the desk.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 4178

(Purpose: To facilitate a transmission line project)

On page 79, between lines 3 and 4, insert the following:

RIGHT-OF-WAY

SEC. ____. (a) Notwithstanding any other provision of law, the Secretary of the Interior shall—

(1) not later than 30 days after the date of enactment of this Act, amend Right-of-Way Grants No. NVN-49781/IDI-26446/NVN-85211/NVN-85210 of the Bureau of Land Management to shift the 200-foot right-of-way for the 500-kilovolt transmission line project to the alignment depicted on the maps entitled ''Southwest Intertie Project'' and dated December 10, 2009, and May 21, 2010, and approve the construction, operation and maintenance plans of the project; and

(2) not later than 90 days after the date of enactment of this Act, issue a notice to proceed with construction of the project in accordance with the amended grants and approved plans described in paragraph (1).

(b) Notwithstanding any other provision of law, the Secretary of Energy may provide or facilitate federal financing for the project described in subsection (a) under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115) or the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), based on the comprehensive reviews and consultations performed by the Secretary of the Interior.

AMENDMENT NO. 4205

(Purpose: To make a technical correction)

On page 81, between lines 23 and 24, insert the following:

SEC. 3008. Of the amounts appropriated for the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) under the heading ''STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'' under the heading ''OFFICE OF JUSTICE PROGRAMS'' under the heading ''STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES'' under title II of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 579), at the discretion

of the Attorney General, the amounts to be made available to Genesee County, Michigan for assistance for individuals transitioning from prison in Genesee County, Michigan pursuant to the joint statement of managers accompanying that Act may be made available to My Brother's Keeper of Genesee County, Michigan to provide assistance for individuals transitioning from prison in Genesee County, Michigan.

AMENDMENT NO. 4217

(Purpose: To provide for the submittal of the charter and reports on the High-Value Detainee Interrogation Group to additional committees of Congress)

On page 26, between lines 2 and 3, insert the following:

(d) SUBMITTAL OF CHARTER AND REPORTS TO ADDITIONAL COMMITTEES OF CONGRESS.—At the same time the Director of National Intelligence submits the charter and procedures referred to in subsection (a), any modification or revision to the charter or procedures under subsection (b), and any report under subsection (c) to the congressional intelligence committees, the Director shall also submit such matter to—

(1) the Committees on Armed Services, Homeland Security and Governmental Affairs, the Judiciary, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Homeland Security, the Judiciary, and Appropriations of the House of Representatives.

AMENDMENT NO. 4222

(Purpose: To limit the use of funds for the Department of Veterans Affairs for the presumption of service-connection between exposure of veterans to Agent Orange during service in Vietnam and certain additional diseases until the period for disapproval by Congress of the regulation establishing such presumption has expired)

At the end of chapter 9 of title I, add the following:

LIMITATION ON USE OF FUNDS AVAILABLE TO THE DEPARTMENT OF VETERANS AFFAIRS

SEC. 902. The amount made available to the Department of Veterans Affairs by this chapter under the heading ''VETERANS BENEFITS ADMINISTRATION'' under the heading ''COMPENSATION AND PENSIONS'' may not be obligated or expended until the expiration of the period for Congressional disapproval under chapter 8 of title 5, United States Code (commonly referred to as the ''Congressional Review Act''), of the regulations prescribed by the Secretary of Veterans Affairs pursuant to section 1116 of title 38, United States Code, to establish a service connection between exposure of veterans to Agent Orange during service in the Republic of Vietnam during the Vietnam era and hairy cell leukemia and other chronic B cell leukemias, Parkinson's disease, and ischemic heart disease.

AMENDMENT NO. 4224

(Purpose: To make a technical correction related to Amtrak security in the Consolidated Appropriations Act, 2010)

On page 81, between lines 23 and 24, insert the following:

SEC. 3008. Section 159(b)(2)(C) of title I of division A of the Consolidated Appropriations Act, 2010 (49 U.S.C. 24305 note) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) requiring inspections of any container containing a firearm or ammunition; and

''(ii) the temporary suspension of firearm carriage service if credible intelligence information indicates a threat related to the national rail system or specific routes or trains.''.

AMENDMENT NO. 4245

(Purpose: To add a provision relating to commitments of resources by foreign governments)

On page 58, line 19, after the period insert the following:

(c) Of the funds appropriated in this chapter and in prior acts making appropriations for the Department of State, foreign operations, and related programs under the headings ''Diplomatic and Consular Programs'' and ''Embassy Security, Construction, and Maintenance'' for Afghanistan, Pakistan and Iraq, up to $300,000,000 may, after consultation with the Committees on Appropriations, be transferred between, and merged with, such appropriations for activities related to security for civilian led operations in such countries.

AMENDMENT NO. 4246

(Purpose: To strike a technical clarification)

On page 69, strike lines 4 through 8.

AMENDMENT NO. 4249

(Purpose: To modify a condition on the availability for funds to support the work of the Independent Electoral Commission and the Electoral Complaints Commission in Afghanistan)

On page 55, line 20, strike ''and'' and all that follows through ''such commissions; and'' and insert the following: ''has no members or other employees who participated in, or helped to cover up, acts of fraud in the 2009 elections for president in Afghanistan, and the Electoral Complaints Commission is a genuinely independent body with all the authorities that were invested in it under Afghanistan law as of December 31, 2009, and with no members appointed by the President of Afghanistan; and''.

AMENDMENT NO. 4260

(Purpose: To clarify that non-military projects in the former Soviet Union for which funding is authorized by this Act for the purpose of engaging scientists and engineers shall be executed through existing science and technology centers)

Beginning on page 66, line 24, strike ''activities'' and all that follows through ''notwithstanding'' on page 67, line 2, and insert ''projects that engage scientists and engineers who have no weapons background, but whose competence could otherwise be applied to weapons development, provided such projects are executed through existing science and technology centers and notwithstanding''.

AMENDMENT NO. 4280

(Purpose: To require the Administrator of General Services to make publicly available the contractor integrity and performance database established under the Clean Contracting Act of 2008)

On page 81, between lines 23 and 24, insert the following:

PUBLIC AVAILABILITY OF CONTRACTOR INTEGRITY AND PERFORMANCE DATABASE

SEC. 3008. Section 872(e)(1) of the Clean Contracting Act of 2008 (subtitle G of title VIII of Public Law 110–417; 41 U.S.C. 417b(e)(1)) is amended by adding at the end the following: ''In addition, the Administrator shall post all such information, excluding past performance reviews, on a publicly available Internet website.''.

AMENDMENT NO. 4184, AS FURTHER MODIFIED

(Purpose: To require the Secretary of the Army to maximize the placement of dredged material available from maintenance dredging of existing navigation channels to mitigate the impacts of the Deepwater Horizon Oil spill in the Gulf of Mexico at full Federal expense)

On page 30, between lines 6 and 7, insert the following:

SEC. 4____. (a) The Secretary of the Army may use funds made available under the heading ''OPERATION AND MAINTENANCE'' of this chapter to place, at full Federal expense, dredged material available from maintenance dredging of existing Federal navigation channels located in the Gulf Coast Region to mitigate the impacts of the Deepwater Horizon Oil spill in the Gulf of Mexico.

(b) The Secretary of the Army shall coordinate the placement of dredged material with appropriate Federal and Gulf Coast State agencies.

(c) The placement of dredged material pursuant to this section shall not be subject to a least-cost-disposal analysis or to the development of a Chief of Engineers report.

(d) Nothing in this section shall affect the ability or authority of the Federal Government to recover costs from an entity determined to be a responsible party in connection with the Deepwater Horizon oil spill pursuant to the Oil Pollution Act of 1990 or any other applicable Federal statute for actions undertaken pursuant to this seciton.

AMENDMENT NO. 4259

(Purpose: To require assessments on the detainees at United States Naval Station, Guantanamo Bay, Cuba)

On page 81, between lines 22 and 23, insert the following:

ASSESSMENTS ON GUANTANAMO BAY DETAINEES

SEC. 3008. (a) SUBMISSION OF INFORMATION RELATED TO DISPOSITION DECISIONS.—Not later than 45 days after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the participants of the interagency review of Guantanamo Bay detainees conducted pursuant to Executive Order 13492 (10 U.S.C. 801 note), shall fully inform the congressional intelligence committees concerning the basis for the disposition decisions reached by the Guantanamo Review Task Force, and shall provide to the congressional intelligence committees—

(1) the written threat analyses prepared on each detainee by the Guantanamo Review Task Force established pursuant to Executive Order 13492; and

(2) access to the intelligence information that formed the basis of any such specific assessments or threat analyses.

(b) FUTURE SUBMISSIONS.—In addition to the analyses, assessments, and information required under subsection (a) and not later than 10 days after the date that a threat assessment described in subsection (a) is disseminated, the Director of National Intelligence shall provide to the congressional intelligence committees—

(1) any new threat assessment prepared by any element of the intelligence community of a Guantanamo Bay detainee who remains in detention or is pending release or transfer; and

(2) access to the intelligence information that formed the basis of such threat assessment.

(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term ''congressional intelligence committees'' has the meaning given that term in section 3(7) of the National Security Act of 1947 (50 U.S.C. 401a(7)).

AMENDMENT NO. 4255

(Purpose: To make a technical correction)

On page 81, between lines 23 and 24, insert the following:

SEC. 3009. Of the amounts appropriated for the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) under the heading ''STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'' under the

heading ''OFFICE OF JUSTICE PROGRAMS'' under the heading ''STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES'' under title II of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 579), at the discretion of the Attorney General, the amounts to be made available to the Marcus Institute, Atlanta, Georgia, to provide remediation for the potential consequences of childhood abuse and neglect, pursuant to the joint statement of managers accompanying that Act, may be made available to the Georgia State University Center for Healthy Development, Atlanta, Georgia.

AMENDMENT NO. 4248

(Purpose: To authorize the Secretary of State to award task orders for police training in Afghanistan under current Department of State contracts for police training)

On page 56, between lines 17 and 18, insert the following:

(g)(1) Notwithstanding section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) and requirements for awarding task orders under task and delivery order contracts under section 303J of such Act (41 U.S.C. 253j), the Secretary of State may award task orders for police training in Afghanistan under current Department of State contracts for police training.

(2) Any task order awarded under paragraph (1) shall be for a limited term and shall remain in performance only until a successor contract or contracts awarded by the Department of Defense using full and open competition have entered into full performance after completion of any start-up or transition periods.

AMENDMENT NO. 4200

(Purpose: To make a technical correction)

On page 34, line 5, strike ''prior'' and all through page 34, line 7, and insert the following: appropriations made available in Public Law 111–83 to the ''Office of the Federal Coordinator for Gulf Coast Rebuilding'', $700,000 are rescinded.

AMENDMENT NO. 4213, AS MODIFIED

(Purpose: To provide authority to the Secretary of the Interior to immediately fund projects under the Coastal Impact Assistance Program on an emergency basis)

On page 81, between lines 23 and 24, insert the following:

SEC. 30___. COASTAL IMPACT ASSISTANCE.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended by adding at the end the following:

''(e) EMERGENCY FUNDING.—

''(1) IN GENERAL.—In response to a spill of national significance under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), at the request of a producing State or coastal political subdivision and notwithstanding the requirements of part 12 of title 43, Code of Federal Regulations (or a successor regulation), the Secretary may immediately disburse funds allocated under this section for 1 or more individual projects that are—

''(A) consistent with subsection (d); and

''(B) specifically designed to respond to the spill of national significance.

''(2) APPROVAL BY SECRETARY.—The Secretary may, in the sole discretion of the Secretary, approve, on a project by project basis, the immediate disbursal of the funds under paragraph (1).

''(3) STATE REQUIREMENTS.—

''(A) ADDITIONAL INFORMATION.—If the Secretary approves a project for funding under this subsection that is included in a plan previously approved under subsection (c), not later than 90 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary any additional information that the Secretary determines to be necessary to ensure that the project is in compliance with subsection (d).

''(B) AMENDMENT TO PLAN.—If the Secretary approves a project for funding under this subsection that is not included in a plan previously approved under subsection (c), not later than 90 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary for approval an amendment to the plan that includes any projects funded under paragraph (1), as well as any information about such projects that the Secretary determines to be necessary to ensure that the project is in compliance with subsection (d).

''(C) LIMITATION.—If a producing State or coastal political subdivision does not submit the additional information or amendments to the plan required by this paragraph, or if, based on the information submitted by the Secretary determines that the project is not in compliance with subsection (d), by the deadlines specified in this paragraph, the Secretary shall not disburse any additional funds to the producing State or the coastal political subdivisions until the date on which the additional information or amendment to the plan has been approved by the Secretary.''.

AMENDMENT NO. 4251, AS FURTHER MODIFIED

(Purpose: To provide funds for drought relief, with an offset)

On page 71, line 21, strike ''$15,000,000'' and insert ''$25,000,000''.

On page 28, between lines 3 and 4, insert the following:

SEC. 4___. EMERGENCY DROUGHT RELIEF.

For an additional amount for ''Water and Related Resources'', $10,000,000, for drought emergency assistance: *Provided*, That financial assistance may be provided under the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2201 et seq.) and any other applicable Federal law (including regulations) for the optimization and conservation of project water supplies to assist drought-plagued areas of the West:

AMENDMENT NO. 4287, AS MODIFIED

(Purpose: To provide fisheries disaster relief, conduct a study on ecosystem services, and conduct an enhanced stock assessment for Gulf of Mexico fisheries impacted by the Deepwater Horizon oil discharge)

On page 79, between lines 3 and 4, insert the following:

FUNDING FOR ENVIRONMENTAL AND FISHERIES IMPACTS

SEC. 2002.

(1) FISHERIES DISASTER RELIEF.—For an additional amount, in addition to other amounts provided in this Act for the National Oceanic and Atmospheric Administration, $15,000,000 to be available to provide fisheries disaster relief under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a) related to a commercial fishery failure due to a fishery resource disaster in the Gulf of Mexico that resulted from the Deepwater Horizon oil discharge.

(2) EXPANDED STOCK ASSESSMENT OF FISHERIES.—For an additional amount, in addition to other amounts provided in this Act for the National Oceanic and Atmospheric Administration, $10,000,000 to conduct an expanded stock assessment of the fisheries of the Gulf of Mexico. Such expanded stock assessment shall include an assessment of the commercial and recreational catch and biological sampling, observer programs, data management and processing activities, the conduct of assessments, and follow-up evaluations of such fisheries.

(3) ECOSYSTEM SERVICES IMPACTS STUDY.—For an additional amount, in addition to other amounts provided for the Department of Commerce, $1,000,000 to be available for the National Academy of Sciences to conduct a study of the long-term ecosystem service impacts of the Deepwater Horizon oil discharge. Such study shall assess long-term costs to the public of lost water filtration, hunting, and fishing (commercial and recreational), and other ecosystem services associated with the Gulf of Mexico.

IN GENERAL.—Of the amounts appropriated or made available under Division B, Title I of Public Law 111–117 that remain unobligated as of the date of the enactment of this Act under Procurement, Acquisition, and Construction for the National Oceanic and Atmospheric Administration, $26,000,000 of the amounts appropriated are hereby rescinded.

CDBG AND EDA FUNDING

Mr. REED. Mr. President, I rise to enter into a colloquy with the chairman, Mr. INOUYE, and vice chairman, Mr. COCHRAN, of the Senate Appropriations Committee, as well as my colleague from Tennessee, Mr. ALEXANDER.

I want to thank my colleagues who have recognized the needs of Rhode Island, which is struggling to overcome the effects of the worst flooding in centuries in midst of the worst economic environment in generations. Indeed, Rhode Island was among the first States to sink into recession. In the last 2 years it has consistently ranked among the top three States in unemployment, with as much as 13 percent of the workforce without jobs. As my colleagues know, Rhode Island has been fortunate for many decades until now to have avoided the kind of major natural disaster damage that has affected so many other States. When those disasters have occurred in other States, there has been no question about the support of the people of Rhode Island or our State's congressional delegation for Federal disaster assistance. I am grateful that in the midst of challenging fiscal environment that the committee, on a bipartisan basis has included assistance for flood-impacted States, specifically Rhode Island and Tennessee. I am particularly grateful for the inclusion of additional community development block grant, CDBG, and economic development assistance, EDA, grant funding, along with a reduction of the non-Federal cost share for FEMA assistance. I also appreciate the challenge of including this funding while trying to stay within the President's top-line request for emergency funding. In the past, the committee has had greater flexibility in responding to emergencies, including in 2008 when over $20 billion was provided to States with major disasters in that year. Given the comparatively limited funding available, I would like to ask the chairman and vice chairman to help clarify the intent of the funding included in the underlying bill, specifically that the intent with respect tothe CDBG and EDA funding provided in the bill is to assist hard-hit communities in Rhode Island and Tennessee. I would

ask my colleagues for their support in maintaining this position in negotiations with the House on the final package.

Mr. INOUYE. Mr. President, the Senator from Rhode Island is correct about the intent of the funding provided here. As the Senator knows, the Appropriations Committee's capacity to provide additional funding for disaster recovery is constrained by the President's top-line number for emergency supplemental appropriations. Given the relatively modest funding available in comparison to previous disaster supplemental appropriations bills, the intent is to focus CDBG and EDA assistance on Rhode Island and Tennessee, where the underlying economic need is greatest. We will work to clarify and maintain that position during conference with the House.

Mr. COCHRAN. Mr. President, I concur with the chairman. The scale of need in both States is significant. While I know the committee would have liked to accommodate a greater amount of funding for Tennessee and Rhode Island, as well as other States, the need to stay within the top-line number in the administration's request has limited the amount of funding available. Given the limited funding available, it is appropriate to focus on States where the underlying economic need is greatest, and I will work to maintain the position described by the chairman.

Mr. ALEXANDER. Mr. President, I thank the chairman and the vice chairman for their comments and their work on this bill, particularly the assistance they have worked to provide to my state. As my colleagues know, the amount of property damage in Tennessee may be more than $10 billion and is the worst natural disaster since President Obama has been in office. While the funding in this bill is important and significant for Tennessee and Rhode Island, it represents only the beginning of what is needed in my state, and I ask for the chairman and vice chairman's continuing support for additional funding for recovery efforts in Tennessee.

Mr. INOUYE. Mr. President, I thank the Senator from Tennessee for his comments, and we will continue to work with him and the Senator from Rhode Island to help address the needs of their States.

Mr. ALEXANDER. Mr. President, I thank the chairman and vice chairman for their commitment and the assistance they have already extended to my State in this bill.

Mr. REED. Mr. President, I thank also my colleagues for their assistance and look forward to working with them to secure passage of this important bill.

AMENDMENT NO. 4251, AS MODIFIED

Mr. MERKLEY. Mr. President, I ask unanimous consent that my as modified amendment No. 4251 to printed in the RECORD.

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

The amendment, as modified, is as follows:

On page 27, line 7, strike ''$173,000,000'' and insert ''$163,000,000''.

On page 28, between lines 3 and 4, insert the following:

SEC. 4___. EMERGENCY DROUGHT RELIEF.

For an additional amount for ''Water and Related Resources'', $9,000,000, for drought emergency assistance: *Provided*, That financial assistance may be provided under the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2201 et seq.) and any other applicable Federal law (including regulations) for the optimization and conservation of project water supplies to assist drought-plagued areas of the West:

Mr. LEAHY. Mr. President, amendment No. 4245 to H.R. 4899, the fiscal year 2010 supplemental appropriations bill, provides the Department of State with authority to transfer up to $300,000,000 between the ''Diplomatic and Consular Programs'' and ''Embassy Security, Construction, and Maintenance'' accounts in chapter 10 of the bill, to respond to potential increases in the cost of security for civilian personnel. This authority is not intended to be used to support site development or construction of permanent consulates or other such facilities.

Mr. President, I want to speak briefly about a heinous crime that occurred in El Salvador that has yet to be solved. On June 18, 2009, Gustavo Marcelo Rivera, an activist and community leader from the city of San Isidro, Cabaas, was kidnapped. His tortured remains were found on July 1 at the bottom of a dry well in the village of Agua Zarca. The cause of death apparently was asphyxiation, and evidence reportedly indicated that his kidnappers may have kept him alive for several days before murdering him.

It is my understanding that four suspects, gang members, have been identified by the Attorney General's office as key suspects in the crime. Apparently, the prosecutor's hypothesis is that Mr. Rivera was with these gang members and was killed after a heated argument; in other words, that his death was a common crime, not a political assassination.

There is reason to suspect otherwise. Mr. Rivera was a well known community leader. He was the founder and director of the Casa de la Cultura in San Isidro, a member of the departmental board of the FMLN party, and the director of the Association of Friends of San Isidro Cabaas. He had been a defender of the environment, and he was outspoken in his opposition to industrial mining by the Canadian mining company Pacific Rim in San Isidro. In addition, I am informed that during the January 2009 municipal elections, Mr. Rivera and other leaders denounced suspected electoral fraud in his municipality. As a result of his activism, Mr. Rivera was the target of threats and accusations and someone reportedly tried to run over him with a car. In addition, the brutal manner in which he was tortured and killed suggests that this was a premeditated crime that may have been intended as a warning to other community activists.

Crimes like this are all too common in El Salvador today, and they concern not only the Salvadoran people but those of us who follow developments in that country. Rarely are competent investigations performed, and almost never is anyone convicted and punished. Impunity is the norm.

I urge the Attorney General to conduct a thorough, transparent, and credible investigation to ensure that not only those who tortured and killed Mr. Rivera are brought to justice, but anyone who may have ordered such a heinous crime is also prosecuted and punished. Democracy is fragile in El Salvador and it cannot survive without a functioning justice system and responsible judicial authorities who have the people's confidence.

I have strongly supported assistance for El Salvador. In the supplemental appropriations bill we have been debating this week, I included $25,000,000 for El Salvador to help rebuild schools, roads, and other infrastructure that was damaged or destroyed during Hurricane Ida last November. Some 150 Salvadorans lost their lives in that disaster. Those funds were not requested by the President in the supplemental bill. I included them because I felt we should help El Salvador rebuild.

But I also feel strongly about justice in El Salvador, whose people suffered from years of civil war during the 1980s. Human rights defenders, journalists, and community activists are increasingly threatened and killed. How the Rivera case is resolved will be a measure of whether the Government of El Salvador is serious about defending the rights of its citizens who courageously speak out against injustice, and upholding the rule of law.

The PRESIDING OFFICER. Under the previous order, all postcloture time is yielded back.

The committee amendment in the nature of a substitute, as amended, is agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: The Senator from Georgia (Mr. CHAMBLISS), the Senator from Louisiana (Mr. VITTER), and the Senator from Texas (Mrs. Hutchison).

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

The result was announced—yeas 67, nays 28, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—67

Akaka	Durbin	Mikulski
Alexander	Feinstein	Murkowski
Baucus	Franken	Murray
Bayh	Gillibrand	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bennett	Inouye	Reed
Bingaman	Johanns	Reid
Bond	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown (MA)	Kerry	Schumer
Brown (OH)	Klobuchar	Shaheen
Burris	Kohl	Snowe
Byrd	Landrieu	Specter
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	LeMieux	Udall (CO)
Casey	Levin	Udall (NM)
Cochran	Lieberman	Warner
Collins	Lugar	Webb
Conrad	McConnell	Whitehouse
Dodd	Menendez	
Dorgan	Merkley	

NAYS—28

Barrasso	Enzi	Risch
Brownback	Feingold	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Coburn	Gregg	Thune
Corker	Hatch	Voinovich
Cornyn	Inhofe	Wicker
Crapo	Isakson	Wyden
DeMint	Kyl	
Ensign	McCain	

NOT VOTING—5

Chambliss	Lincoln	Vitter
Hutchison	McCaskill	

The bill (H.R. 4899), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. INOUYE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair appoints the following conferees.

The Presiding Officer (Mr. WARNER) appointed Mr. INOUYE, Mr. BYRD, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. TESTER, Mr. SPECTER, Mr. COCHRAN, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. ALEXANDER, Ms. COLLINS, Mr. VOINOVICH, and Ms. MURKOWSKI conferees on the part of the Senate.

UNANIMOUS CONSENT REQUEST—H.R. 4853

Mr. GRASSLEY. As the majority struggles in an attempt to pass another massive deficit spending bill through Congress, biodiesel plants in Iowa and 42 other States continue to lay off workers because the Democratic-controlled Congress has not extended the biodiesel tax credit. This is a simple and noncontroversial tax extension that will likely reinstate more than 20,000 jobs nationwide and about 2,000 jobs in my State of Iowa alone.

These jobs have fallen victim to a tactic used by the Democratic leadership to hold this popular and noncontroversial tax provision hostage to out-of-control deficit spending here in Washington.

This past February I worked out a bipartisan compromise with Chairman BAUCUS to extend the expired tax provisions, including the biodiesel tax credit. However, the Senate majority leader decided to put partisanship ahead of job security for thousands of workers, and that compromise did not move ahead.

So I am here again to try to put thousands of Americans back to work producing a very clean and renewable fuel. Therefore, I ask unanimous consent to proceed to H.R. 4853; that my substitute, which contains a 1-year extension of the biodiesel and renewable diesel tax credits for all of the year 2010, be agreed to, and the bill, as amended, be read a third time and passed.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, reserving the right to object, and it is not with great pleasure, I object to the request offered by my good friend from Iowa. This provision he is seeking unanimous consent about is one of the provisions in the larger tax extenders bill that the House is working on and attempting to pass tonight. They are laboring mightily but so far have not been able to pass the extenders job legislation that would contain the provision mentioned by the Senator from Iowa. This is the tax credit for biodiesel and renewable diesel. It has created jobs. It is a good provision.

I might say to my friend, the jobs are now lost because it expired. It expired the end of last year. We will extend this provision. We should extend it and we will extend it. We are not able to extend it tonight by itself. Why? Because many other Senators have specific provisions in the job extenders legislation that are particularly applicable to their States.

One I am particularly interested in is the property tax deduction, irrespective of whether the taxpayer itemized his or her deductions.

There will be a time, when we get back after the recess, to try to get these provisions passed so jobs are created. But we have to do it together as a package. We can't do it singly, separately, tonight. I want to tell my good friend from Iowa I will work with him when we get back after the recess. For the time being I feel obliged to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. HARKIN. Mr. President, on the Executive Calendar, I ask unanimous consent the Senate proceed to executive session to consider en bloc Executive Calendar Nos. 427, 493, 494, 688, 500, 501, 521, 556, 581, 588, 589, and a number of others that the minority, I am sure, is aware of, and it includes all nominations on the Secretary's desk in the Air Force, Army, Foreign Service, Marine Corps and Navy—these are military people waiting to get their increases in rank. They have all been cleared and they need to be cleared so they can get their increases in rank—that the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc, that no further motions be in order, that any statements relating to the nominations be printed in the RECORD, that the President be immediately notified of the Senate's action and the Senate resume legislative session.

These are nominees, as I said. First of all, they are military people waiting for their increase in rank. But it is also people such as Brian Hayes, a member of the NLRB; Mark Pearce, member of the NLRB, et cetera, et cetera.

Craig Becker, member of the NLRB; Anthony Coscia, Amtrak board of directors; Mark Rosekind, member of the NTSB. Here is David Lopez, general counsel of the EEOC. Here is Michael Punke, Deputy U.S. Trade Representative; Islam Siddiqui, Chief Ag Negotiator for the U.S. Trade Representative; Jeffrey Moreland, director of Amtrak; Carolyn Radelet, Deputy Director of the Peace Corps; Lana Pollack, Commissioner of U.S. International Joint Commission for the U.S. and Canada. And there are a number of others. I will not go through them all. They are a number of people who need to be in place to make our government work and run. That is who we are trying to ask unanimous consent that we can get them confirmed.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The Republican leader.

Mr. MCCONNELL. Mr. President, I would say to my good friend from Iowa, the majority leader and I have been working on a package of nominations. Unfortunately, we are snagged over one particular nomination which has already been defeated by the Senate, and that was the nomination of Craig Becker to be on the NLRB. The President then recessed Mr. Becker and recessed a Democratic nomination to the NLRB but not a Republican nominee to the

NLRB. There is a fundamental lack of equity and fairness involved, and that has been a significant hindrance in coming to a consent agreement.

Obviously, before we leave we will clear the military nominations. Those are really not in dispute. But typically what happens here before a recess, the majority leader and I get together and we try to work out as many of these as we can. To just clear the whole calendar involves, in addition, clearing judges who just got out of committee this week. We have a way that we sequence those who have been acceptable to both sides.

In short, I have not seen every single name on the list of the Senator from Iowa, but it is simply not the way we are going to go forward, certainly not this evening.

Accordingly, I would now ask unanimous consent that the Senate proceed to executive session to consider en bloc the following list of nominations that I will send to the desk. This is a list of approximately 60 nominations from the Executive Calendar.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Iowa.

Mr. HARKIN. I say to my friend from Kentucky, fairness and equity? OK. Let's talk about fairness and equity. Let's talk about this. Mr. Becker was brought up in our committee last fall, along with Mark Pearce and Mr. Brian Hayes. They all went through our committee—bipartisan. Mr. ENZI, the ranking Republican on our committee, voted for that, and so did the Senator from Alaska, Ms. MURKOWSKI.

The names were then forwarded to the Senate. They came to the Senate, and the leadership on the Republican side decided to filibuster—decided to filibuster. We had an agreement to move this package forward on the National Labor Relations Board.

Fairness and equity? Since 1985, we have never had a hearing for a member to be on the National Labor Relations Board who wasn't nominated for Chair because when the Republicans were in power, they would have their people, we would have ours, we would agree, and they would go through. That is what we did last fall with Mr. Becker and Mr. Pearce and Mr. Hayes. And I thought things were fine. That is the way we have always done things. We agreed. We came out on the floor. And then the Republican leadership decided to filibuster—decided to filibuster.

Well, what happened then was that at the end of the year—I want to set the record straight here—what happens is at the end of the last session, there is always a unanimous consent to carry over the calendar, the Executive Calendar, from one session to the next.

One Senator, the Senator from Arizona, Mr. MCCAIN, objected to Mr. Becker. Under the rules of the Senate, then Mr. Becker had to go back to the White House and get renominated and sent back to the Senate.

The Republicans asked for a hearing on Mr. Becker. Now, mind you, we have never had a hearing on one of these people since 1985. As the chair of the relevant committee, I did not have to have a hearing. But I decided, Mr. Becker has nothing to hide. He is willing to confront and answer all questions in open session. So I agreed to have a hearing.

I could have had a hearing on Mr. Hayes, also, the Republican, but I said: No, we do not have to do that.

So I had a hearing. We brought Mr. Becker before the committee, in open session, to answer any questions anyone asked him. If I am not mistaken, I think only three people showed up to ask him questions. But what they did is they submitted questions in writing. The Republicans submitted 440 written questions to Mr. Becker, almost twice what they did for Justice Sotomayor going on the Supreme Court. There were 440 written questions, and Mr. Becker obliged and answered all of those questions. Well, the Republicans still objected—still objected.

Now the minority leader says he failed a vote in the Senate. That is not true because there was a filibuster. We needed 60 votes to overcome the filibuster. When we brought up Mr. Becker's name, he got 52 votes on the Senate floor. Quite frankly, he would have had more, but there were several Senators who were absent because of weather conditions. I know who said on the RECORD that they would have supported him. So it is not quite right when the minority leader says Mr. Becker did not get approved on the Senate floor. He did. He just could not get the 60 votes to overcome the Republican filibuster.

So, again, you know, Mr. Becker is well qualified. Even my Republican colleagues freely admitted that in the committee, that he was well qualified. Do you know what their objection was? He comes from a union background. He comes from a union background. To the Republicans, that is a mortal sin. Well, if you are Catholic, you know what that means. That is a mortal sin. That is unforgivable to Republicans to have a union background.

As I said, he was willing to answer any questions. He did, in writing. I have heard nothing—nothing from the Republican side pointing to some answer he gave that would disqualify him from being on the NLRB. They have simply drawn a line in the sand and said that because he has a union background, they are not going to support him and they are going to filibuster.

So here we are. We wanted to get through all of those nominations tonight. I read some of them. I did not read them all. Ambassador to the Slovak Republic, Ambassador to the Dominican Republic, Ambassador to Niger, Deputy Director of the Peace Corps—they will not let them go through. Why? Because of one person—Mr. Becker—who has a union background and they do not want him on the NLRB.

Well, Mr. Becker has a recess appointment. He did get a recess appointment from the President. But they will not let him get a full appointment by the President. And they are willing to stop everything, stop every nomination because of their objections to Craig Becker even through Craig Becker got 52 votes here on the Senate floor.

So when the minority leader talks about fairness and equity, well, I think the fairness and equity is on this side of the aisle on this one. I am sorry to say that a lot of these people will not get their nominations. But, again, the Republicans do not care. They do not care. They would just as soon the government stop everything.

Do they care whether we have enough people in the Peace Corps to run the Peace Corps? They do not care. Do they care whether we have an Ambassador to the Slovak Republic? They do not care. Do they care if we have members on the TVA, the Tennessee Valley Authority, board of directors? Obviously not. They have been holding up these nominees for a long time. This is not the first time they have held up these nominees.

So fairness and equity? Well, I wish the minority side would show a little fairness and equity when it comes to decency and to abiding by agreements. We had an agreement. We had an agreement to move these people through as a package. We did that in committee. That agreement was broken by the Republicans, not by the Democrats.

I am sorry to have to take this time on the floor to correct my friend from Kentucky on fairness and equity, but I think the public has a right to know why we are where we are right now and who is responsible for the fact that we cannot get nominations through here on the Senate floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

Mr. DURBIN. I was trying to get down here when Senator HARKIN was completing his remarks, to join him, because I am as concerned as he is about the impact of these nominations that still remain on our Executive Calendar here at the Senate.

This publication comes out on a daily basis to tell us which nominations have been sent to the floor of the Senate by the committees. They do not reach the floor of the Senate until a process is followed which involves nomination by the President of the United States, an investigation of the nominee by agencies of the government and by our committees, and then consideration of those nominees.

Many committees have hearings where the nominees are called before them. Questions can be asked. They certainly are in the Judiciary Committee where I serve. Then, at the end of the day the committee decides whether to submit this nominee's name for the consideration of the full Senate.

So the fact that Senator HARKIN came to the floor this evening is an indication of the frustration many of us feel about what has happened.

So far since President Obama took office last year, the Senate has had rollcall votes on 51 nominations. There are others who have been approved without rollcalls. But of those 51 nominations which were subjected to rollcall votes, 22 were confirmed with more than 90 votes and 18 were confirmed with 70 votes or more. That means that almost 80 percent of those nominees have passed with overwhelming support.

Many of those votes took place after lengthy delays. In other words, these men and women who agreed to serve our Nation and to serve the President and made personal sacrifices to do that went through the long and arduous process, made it to the Senate calendar, and then had to wait. On average, the President's nominees have languished on this Senate calendar for over 105 days, with many taking much longer; more than 3 months for those who were sent to the Senate floor. I know because some of these nominees are people I have met and worked with, even people I have recommended to the President. It is an uneasy feeling to be nominated, to be waiting for your opportunity to serve in positions large and small, and then to be told, day after weary day, that the Senate just did not get around to it.

This week the Executive Calendar contains more than 107 names of nominees. More than 85 percent of those nominees came through the committee process with overwhelming support. Point of comparison for those who will say: The Republicans may be playing games now with nominations, but I am sure you Democrats did the same thing to President Bush.

Not true. At this time in President George W. Bush's Presidency, there were exactly 13 nominees on the calendar. There are over 107 nominees on the calendar at this moment. There is no comparison.

It is time for the Republicans to stop abusing the Senate's responsibility to provide advice and consent on the President's well-qualified nominees. If I take a look at some of these nominees, it is troubling because they are overwhelmingly qualified for the jobs for which they have been recommended.

The Illinois nominees currently on the calendar include Craig Becker to be a member of the National Labor Relations Board. He was recess-appointed after waiting for 16 weeks on the calendar. Mary Smith to be Assistant Attorney General, she has been on the calendar for more than 16 weeks. Gary Scott Feinerman, to be U.S. district judge for the Northern District of Illinois, has been waiting 6 weeks. He is a man eminently qualified who was passed out of the Judiciary Committee by voice vote. Sharon Johnson Coleman, another nominee from Illinois to be U.S. district judge, again approved by voice vote unanimously, has been sitting on the calendar for 6 weeks. Robert Wedgeworth to be a member of the National Museum and Library Services Board, has been waiting for 4 weeks; Carla D. Hayden, to be a member of the National Museum and Library Services Board, another 4 weeks; and Darryl McPherson, who we would like to have serve as a U.S. marshal in the Northern District of Illinois. He was just sent to the calendar. This is an indication. In the Northern District of Illinois, several years ago, we had the tragic murder of the family of a U.S. district court judge. So when we talk about filling the position of U.S. marshal in that particular district, it is because we know that there is a vulnerability for the men and women serving the government as judges, a vulnerability which resulted in a tragedy for one of our more celebrated and liked Federal judges in Chicago.

Why would we hold up this man's nomination? Wouldn't we want the U.S. marshal in place doing his job? It is an important responsibility administratively, but it is equally important to protect the men and women in the judiciary. Why would we want to delay that when we have been through the tragic murder of a family in the Northern District of Illinois?

That is why I wanted to join Senator HARKIN. We are leaving now for a little over a week over Memorial Day. Many of us will be back home for Memorial Day, then moving around in different places. This calendar will sit here for another 10 or 12 days. The men and women whose names are in nomination will wait another 12 days or 2 weeks before they can be considered. In the meantime, their lives are on hold. Their service to our country is delayed. The President's ability to put his team together has been diminished by this strategy from the Republican side.

Tonight Senator HARKIN tried to move 51 of these nominees. Senator MCCONNELL objected. It is unfortunate, truly unfortunate, that we don't step forward and give these men and women a chance to serve the government and give the President a chance to have those in place who will make his administration complete. That is the only fair thing for us to do.

I hope when we return we will come to our senses and take a different strategy. More than 107 men and women whose names are on this calendar are waiting for us to make that decision. In fairness to the President and to the Nation, I hope we make it with dispatch.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, as the Senate recesses for Memorial Day, I wish the Republican leadership had worked with us to clear the nominations that have been pending on the calendar for far too long. There is now a backlog of 26 judicial nominees awaiting final Senate action. Nineteen of the 26 were reported by the Judiciary Committee without a single negative vote from any Republican or any Democratic Senator on the committee. There is no reason, nor is there any excuse, for the Senate not having promptly considered and confirmed those judicial nominees. Two other nominations received only one or as few as four negative votes. That means that six of the seven Republicans voted in favor of Judge Wynn to the Fourth Circuit, and nearly half the Republicans on the committee supported Jane Stranch's nomination to the Fourth Circuit, as does Senator ALEXANDER. Still Republicans refuse to enter into time agreements on those nominations, the four others or, for that matter, any of the 26 judicial nominations they are stalling from consideration and confirmation.

The Senate is well behind the pace I set for President Bush's judicial nominees in 2001 and 2002. By this date in President Bush's Presidency, the Senate had confirmed 57 of his judicial nominees. Despite the fact that President Obama began sending us judicial nominations 2 months earlier than President Bush had, the Senate has only confirmed 25 of his Federal circuit and district court nominees to date.

Federal judicial vacancies remain over 100 around the country. Yet 26 judicial nominations considered and favorably reported by the Senate Judiciary Committee remain stalled awaiting final Senate action. The Senate should vote on all of them without further obstruction or delay.

Before the Memorial Day recess in 2002, there were only six judicial nominations reported by the Senate Judiciary Committee and awaiting final consideration by the Senate. They had all been reported within the last week before the recess began. This year, by contrast, Republicans have stalled nominations reported as long ago as last November. Only one of the 26 was reported close to this recess. The others, more than two dozen, have all been languishing without final action because of Republican obstruction. This is not how the Senate should act, nor how the Senate has conducted its business in the past. This is new and it is wrong.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. DURBIN. 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.

TRIBUTE TO JOSEPH FLYNN

Mr. DURBIN. Mr. President, I rise to congratulate Joseph Flynn, a constituent and friend, on the occasion of his 90th birthday. It has often been said that our Greatest Generation is comprised of those Americans who pulled the country out of the depths of the Great Depression and went on to lead the Allies to victory in World War Two. My friend Joe Flynn is a quintessential member of that generation. One of 11 children born to immigrant parents in Chicago, he exemplifies the virtues of love of family, devotion to country, generosity to neighbors, and unstinting hard work.

Growing up in Chicago's Old Town neighborhood, the guiding light of Joe's life was his mother, Mary. She instilled in him the moral foundation that continues to guide him to this very day. Joe began his working life while still a boy, hawking newspapers on Chicago street corners and stocking shelves in the neighborhood grocery store. When Joe was just out of his teens, he, like so many other young men of his time, faced the prospect of his country going to war and calling on him to do his part.

Except Joe didn't wait for his country to call—he enlisted in the Army 2 months before the attack on Pearl Harbor.

Joe spent the next 4 years in the Army serving as a medic in the 941st Field Artillery. His unit landed on Omaha Beach shortly after D-day, was among the first American units to enter a liberated Paris, and saw action at the Battle of the Bulge.

Despite all that, Joe—never one to complain—says that he had an easy war. His opinion is that the American men and women in uniform today are the ones with the tough duty. They are the ones that this old soldier respects.

Coming home to a country at peace, Joe married his girlfriend, Martha Tampa, herself a veteran of the Women's Army Corps. They raised six children: Tim, Joe, Anne, Martha, Deborah and Kevin. Joe and Martha had been married for more than 57 years when Martha passed away, but if you ask Joe, he will no doubt tell you she is still very much alive in his heart.

To provide for his family, Joe worked at the A. Finkl & Sons steel mill. He supervised the loading of multiton pieces of machined steel onto trucks to keep America's industrial base supplied. He rose at 4:30 a.m. to take a CTA bus to his job, and he often worked 60 hours or more to earn the precious overtime money his family needed to pay for their mortgage, their groceries, and their education.

As hard as Joe worked, when he got off the bus at night, he would run a half mile home because he couldn't wait to see his family. After greeting Martha and his kids, he would sit down and call his mother.

The people Joe loves are everything to him, and he now has nine grandchildren and two great-grandchildren: Ryan, Meghan, Gwyneth, Gillian, Dylan, Ashley, Brittney, Courtney, Caitie, Ethan and Oliver. He also holds dear his children's spouses and significant others: Doug, Catherine and Bill.

Joe's politics are simple. Being a lifelong working man—who still mows his own lawn and cleans his own gutters—he believes that the working men and women of the United States deserve their fair share of the country's prosperity in the good times and its help in the hard times.

History doesn't often record people like Joe as being great men, but as his family will tell you, he is the greatest example of a good man they know.

SANCTIONS ON IRAN

Mr. KYL. Mr. President, on May 25, Robert Kagan, a senior associate at the Carnegie Endowment for International Peace, wrote a column in the Washington Post explaining that Russia's recent agreement to tighten sanctions on Iran is not as significant as the Obama administration has claimed.

Dr. Kagan wrote that the Obama administration paid a high price to get Russia to agree to ''another hollow U.N. Security Council resolution'' and that the Russians ''sometimes used to say and do more'' during the Bush administration. It is unclear to me what the administration can point to as the fruits of the Russia reset, at least as far as the United States is concerned.

Mr. President, I ask unanimous consent to have Dr. Kagan's column printed in the RECORD.

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

[From the Washington Post, May 25, 2010]

A HOLLOW 'RESET' WITH RUSSIA

(By Robert Kagan)

It took months of hard negotiating, but finally the administration got Russia to agree to a resolution tightening sanctions on Iran. The United States had to drop tougher measures it wanted to impose, of course, to win approval. Nevertheless, senior Russian officials were making the kinds of strong statements about Iran's nuclear program that they had long refused to make. Iran ''must cease enrichment,'' declared Russia's ambassador to the United Nations. One senior European official told the New York Times, ''We consider this a very important decision by the Russians.''

Yes, it was quite a breakthrough—by the administration of George W. Bush. In fact, this 2007 triumph came after another, similar breakthrough in 2006, when months of negotiations with Moscow had produced the first watered-down resolution. And both were followed in 2008 by yet another breakthrough, when the Bush administration got Moscow to agree to a third resolution, another marginal tightening of sanctions, after more negotiations and more diluting.

Given that history, few accomplishments have been more oversold than the Obama administration's ''success'' in getting Russia to agree, for the fourth time in five years, to another vacuous U.N. Security Council resolution. It is being trumpeted as a triumph of the administration's ''reset'' of the U.S.-Russian relationship, the main point of which was to get the Russians on board regarding Iran. All we've heard in recent months is how the Russians finally want to work with us on Iran and genuinely see the Iranian bomb as a threat—all because Obama has repaired relations with Russia that were allegedly destroyed by Bush.

Obama officials must assume that no one will bother to check the record (as, so far, none of the journalists covering the story has). The fact is, the Russians have not said or done anything in the past few months that they didn't do or say during the Bush years. In fact, they sometimes used to say and do more. Here's Vladimir Putin in April 2005: ''We categorically oppose any attempts by Iran to acquire nuclear weapons. . . . Our Iranian partners must renounce setting up the technology for the entire nuclear fuel cycle and should not obstruct placing their nuclear programs under complete international supervision.'' Here's one of Putin's top national security advisers, Igor S. Ivanov, in March 2007: ''The clock must be stopped; Iran must freeze uranium enrichment.'' Indeed, the New York Times' Elaine Sciolino reported that month that Moscow threatened to ''withhold nuclear fuel for Iran's nearly completed Bushehr power plant unless Iran suspends its uranium enrichment as demanded by the United Nations Security Council''—which prompted the Times' editorial page to give the Bush administration ''credit if it helped Moscow to see where its larger interests lie.'' Nine months later, of course, Russia delivered the fuel.

It remains to be seen whether this latest breakthrough has greater meaning than the previous three or is just round four of Charlie Brown and the football. The latest draft resolution tightens sanctions in some areas around the margins, but the administration was forced to cave to some Russian and Chinese demands. The Post reported: ''The Obama administration failed to win approval for key proposals it had sought, including restrictions on Iran's lucrative oil trade, a comprehensive ban on financial dealings with the Guard Corps and a U.S.-backed proposal to halt new investment in the Iranian energy sector.'' Far from the comprehensive arms embargo Washington wanted, the draft resolution does not even prohibit Moscow from completing the sale of its S–300 surface-to-air missile defense system to Tehran. A change to the Federal Register on Friday showed that the administration had lifted sanctions against four Russian entities involved in illicit weapons trade with Iran and Syria since 1999, suggesting last-minute deal sweeteners.

What is bizarre is the administration's claim that Russian behavior is somehow the result of Obama's ''reset'' diplomacy. Russia

has responded to the Obama administration in the same ways it did to the Bush administration before the ''reset.'' Moscow has been playing this game for years. It has sold the same rug many times. The only thing that has changed is the price the United States has been willing to pay.

As anyone who ever shopped for a rug knows, the more you pay for it, the more valuable it seems. The Obama administration has paid a lot. In exchange for Russian cooperation, President Obama has killed the Bush administration's planned missile defense installations in Poland and the Czech Republic. Obama has officially declared that Russia's continued illegal military occupation of Georgia is no ''obstacle'' to U.S.-Russian civilian nuclear cooperation. The recent deal between Russia and Ukraine granting Russia control of a Crimean naval base through 2042 was shrugged off by Obama officials, as have been Putin's suggestions for merging Russian and Ukrainian industries in a blatant bid to undermine Ukrainian sovereignty.

So at least one effect of the administration's ''reset'' has been to produce a wave of insecurity throughout Eastern and Central Europe and the Baltics, where people are starting to fear they can no longer count on the United States to protect them from an expansive Russia. And for this the administration has gotten what? Yet another hollow U.N. Security Council resolution. Some observers suggest that Iran's leaders are quaking in their boots, confronted by this great unity of the international ''community.'' More likely, they are laughing up their sleeves—along with the men in Moscow.

Robert Kagan, a senior associate at the Carnegie Endowment for International Peace, writes a monthly column for The Post.

HONORING OUR ARMED FORCES

Mr. COCHRAN. Mr. President, I wish to acknowledge Memorial Day, which provides us with an opportunity to take time out from our busy lives to remember and honor those men and women who have made the ultimate sacrifice to protect the United States and the liberties we hold dear.

Mississippians have a strong affinity for our national defense, with thousands of brave citizens volunteering to serve in the Armed Forces. We also understand that, unfortunately, we will lose loved ones as part of that dedication.

The very first Memorial Day, originally known as Decoration Day, was observed in 1868 by decorating the graves of Civil War soldiers, and since then Americans have set aside a time each year to honor their fallen heroes.

Columbus, MS, proudly claims to be the birthplace of this tradition, but Memorial Day wasn't officially established as a Federal holiday until 1971. In the nearly 234 years since we became an independent nation, Americans have fought in numerous wars, and many have given their lives in defense of the ideals that the United States represents.

As we gather this year to commemorate Memorial Day, we can reflect on all of the Mississippians who have perished protecting our Nation, whether in battles long ago or in the ongoing conflicts in Afghanistan and Iraq.

Since the start of Operation Enduring Freedom and Operation Iraqi Freedom almost 10 years ago, more than 70 members of the Armed Forces with close ties to Mississippi have died fighting in the wars in Afghanistan and Iraq. Since Memorial Day last year, nine Mississippi soldiers have died while serving the American people. Those valiant men include LCpl. Phillip P. Clark, 19, of Brandon, died May 18, 2010; SGT Anthony O. Magee, 29, of Hattiesburg, died April 27, 2010; Army PFC Anthony Blount, 21, of Petal, died April 7, 2010; SSG William S. Ricketts, 27, of Corinth, died Feb 27, 2010; SFC Christopher D. Shaw, 26, of Natchez, died Sept. 29, 2009; SGT Matthew L. Ingram, 25, of Newton, died Aug. 21, 2009; and SFC Alejandro Granado, 42, of Fairfax, Va., died Aug. 2, 2009. Mississippi Guard; SFC Severin W. Summers III, 43, of Bentonia, died Aug. 2, 2009; and Army SSG Johnny Roosevelt Polk, 39, of Gulfport, died July 31, 2009.

I honor them, and my heart goes out to the families of all the brave Mississippi men and women in uniform who have died for our country. It is the endless support of families that motivates our service men and women to carry out their duties, and their dedication must not be forgotten this Memorial Day.

Congress is working diligently to provide our troops in Afghanistan with the funds necessary to finish the job and come home safely. I understand the necessity of matching our soldiers' readiness with the means to complete their mission, and I am confident that the entire Mississippi delegation and Congress continue to take that duty very seriously.

As a veteran of the U.S. Navy, I am particularly thankful for the bravery and dedication of those who have fought and died for our country in our defense. We are blessed to live in a country that protects its citizens with such a fine, fighting force.

This Memorial Day, I encourage everyone to take a moment to remember the courageous American soldiers who have given their lives for our Nation and to thank their families. Our fallen warriors are true heroes, and we owe them our solemn gratitude for their service and sacrifice.

MEMORIAL DAY

Mr. President, next week our Nation will observe Memorial Day, an occasion on which we honor the men and women who gave this country what President Lincoln called ''the last, full measure of devotion''—their very lives. President Lincoln uttered those now timeless words at a ceremony honoring thousands of Civil War troops who fell in a battle surrounding a small town called Gettysburg. To this day, his words reflect, with unparalleled clarity, the heroic sacrifices that made, and have kept, this country safe and free. This Memorial Day we once again honor those men and women.

How do we properly honor those who gave their lives while in military service? Lincoln answered that question—''We honor them by dedicating ourselves to the cause for which they gave themselves. We honor those who died by ensuring, in Lincoln's words, that they ''shall not have died in vain.'' We carry on, we remember them, and we remember to tend to their comrades and their families who live among us still.

The Senate's role in this important task, to honor veterans and their family members with the care and benefits they have earned, falls in part to the Committee on Veterans' Affairs. I have had the honor of serving on that committee for 20 years, most recently as its Chairman. In that capacity, I am pleased to report on the progress Congress has made since last Memorial Day.

Last Memorial Day, Congress had good reason to be proud when looking back at recent gains for veterans and their families. Since 2007, we have passed historic appropriations bills to properly fund VA, following years of drastic underfunding. We passed the most substantive GI bill since World War II, which has already been put to use by hundreds of thousands of Americans. And we made wide-ranging reforms to the Department of Veterans Affairs—overhauling its mental health care and suicide prevention programs, and enhancing cooperation and collaboration between the Departments of Defense and Veterans Affairs.

This Memorial Day, we can be proud of having done even more to help VA adapt to the needs of today's veterans and their families. I will focus on two of the most significant bills—one which reformed the broken funding process for veterans' health care, and the other, which charts a course for VA where the needs of women veterans and family caregivers receive special attention.

When I became chairman of the committee, the VA health care system had endured many years of chronic underfunding, leading to health care rationing and budget shortfalls. While we succeeded in restoring VA's budget to appropriate levels, we still had not addressed the underlying funding process—a one-year-at-a-time appropriations process that led to funding delays in 20 of the last 23 years. To fix this broken system, I introduced the Veterans Health Care Budget Reform and Transparency Act. This bill was designed to take the process of advance appropriations—funding a program one year ahead of the regular appropriations process—and apply it to the Nation's largest health care system. At this time last year, that bill was still pending in Congress. Since then, our colleagues overwhelmingly chose to support this legislation, and the President signed it into law. This change will be felt in every State of the Union. At the one thousand-plus points of care run by VA, administrators will know

what their budget will be for the current year and for the year to come. The 6 million veterans who are projected to seek VA care will not have to worry about whether their local VA clinic will have to go months without a proper budget, as they did in the past.

We now turn to the important task of overseeing the implementation of the new law and standing by should VA or the Administration ask for appropriate funding. We are currently working on the first budget with advance appropriations under the new authority, and I have been pleased with what has been a smooth transition.

At this point last year, many other veterans' initiatives were pending—for veterans in rural areas, for the caregivers of wounded warriors, and for women veterans—to name a few. All of these proposals, along with others, were wrapped into one important package—the Caregivers and Veterans Omnibus Health Services Act. While this was a bipartisan bill from the beginning, its passage was far from assured. Isolated Members of Congress sought to block the bill at several stages, citing fears of cost and change. Resolute that it would be change for the better and that its cost is, in fact, a cost of war, the supporters of this bill prevailed last month when President Obama's signature made it law.

This new law's many provisions where reviewed by this body before we voted for them, so I will not again go into all of the details. Instead, I will highlight just a few of the changes in the new law:

For the families caring for wounded warriors, it brings an unprecedented permanent program to train, certify, and financially support them. With this important change, VA recognizes that the families of disabled veterans should be treated as partners, not ignored.

For a growing number of women veterans who served our Nation honorably, it brings changes to help VA adapt to their needs. These include an authorization for VA to provide health care for a woman veteran's newborn child for up to one week; a mandate for VA to implement a pilot program to provide child care and adjustment care to women veterans; and a requirement that VA train mental health providers to treat military sexual trauma.

For veterans in rural areas, the new law brings programs and reforms to break down barriers between them and the care they deserve. To name a few, these include travel reimbursements for veterans treated at VA facilities; grants for veterans service organization transporting veterans from remote areas; an expansion of telehealth options for veterans; and provisions promoting collaboration with community organizations and providers such as the Indian Health Services.

The bill makes other important changes, from eliminating copayments for catastrophically disabled veterans to strengthening VA's ability to recruit and retain first-class health care professionals. These valuable changes and others are now law, thanks to the support of Congress and the President.

As I noted at the outset, these measures, which demonstrate Congress's gratitude to our troops abroad and veterans at home, are the best way we can honor those who gave their lives in service to their country. While much remains to be done, as we pause this Memorial Day, we can recall the significant changes over the past year.

I close by expressing once more my gratitude to the patriots who are with us in the flesh and in spirit, and to the nation and the national ideals that unite us all.

Ms. MURKOWSKI. Mr. President, as you are aware, on Memorial Day citizens across our great country pause to reflect on our fallen heroes. American hearts swell with pride as men and women everywhere stand just a little bit taller when hearing our National Anthem, and they feel a lump in their throat at the sound of a bugle playing taps. We stand proud and remember our Nation's sons and daughters who no longer stand with us but whose names and memories remain forever preserved in our hearts. On Memorial Day, our Nation weighs and respects the price of our freedom.

We can and we should learn from those Americans who went to war but never returned home. For them, service meant accepting the risk that they might not have a chance to enjoy the freedom their service protects. They selflessly chose to serve anyway. For the fallen, honor meant the privilege of wearing a U.S. military uniform and a chance to earn the respect that it garners around the world despite the risk that it might make them a target for those who mean us harm. For them, selflessness meant answering a call for help from a fellow soldier, without hesitation, even if chances were high that it would be their final act.

These timeless qualities of service, honor, respect, and selflessness form the bedrock of military service in a free society. On Memorial Day, we commemorate those who lived according to these principles so that we might assemble in this Chamber and across the land as free people, safe under the umbrella of protection that their brothers and sisters continue to provide around the world today.

It is appropriate that on Memorial Day, we should set aside our differences and unite as Americans—a unified nation with one common voice to honor our fallen. Let us celebrate that we are a free nation, a proud nation, a nation guided by principles and universal truths. And although we may disagree on many things, we do so peacefully and lawfully. Even in tough times such as these, we remain a beacon of light around the world for those who can only imagine a life of freedom as they struggle to survive under the grip of tyranny and oppression. Today we remember the men and women who kept that beacon lit and consider the gravity of their sacrifice.

As a nation, we must also remember that with every fallen soldier there is a family left behind. We should appreciate with compassion and respect their enduring sacrifice and provide for them the support and gratitude they deserve. Ours is a grateful nation.

Often quoted is our Declaration of Independence that proclaims ''all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.'' It is those who have answered that call to service who ensured that our gift of liberty is not only unalienable, it is also enduring.

REMEMBERING DR. GEORGE TILLER

Mrs. SHAHEEN. Mr. President, 1 year ago this week, Dr. George Tiller, a provider of critical reproductive health services, was shot to death while at church in Wichita, KS. The anniversary of his death serves as a solemn reminder of the violence that reproductive health professionals face today.

Unfortunately, like so many of his colleagues who treat women across this country, Dr. Tiller faced years of constant harassment, intimidation and death threats. These acts of violence eventually culminated in his murder.

We know, however, that Dr. Tiller's murder is not an isolated incident. A pattern of intimidation, threats and violence against reproductive health providers exists in this country and must end.

Since 1993, eight clinic workers have been murdered in the United States. During that time period there have been thousands of reported acts of violence against providers of reproductive health care including bombings, arsons, death threats, kidnappings and assaults. As the Tiller murder demonstrates, we simply cannot tolerate any form of harassment and threats to health care providers and their patients.

I remember clearly 10 years ago tomorrow—May 28, 2000—when the Concord Feminist Health Center in my home State of New Hampshire was the victim of an arson attack. The facility suffered extensive damage, costing tens of thousands of dollars to repair. Thankfully, no one was injured in the attack. It was not merely the cost of the repairs that was so troubling—what was troubling was that this act of hate and intimidation left the community feeling fearful and uncertain. No one should live with that fear and certainly not because they provide critical health care services to women.

I recently heard the story about a reproductive health center director in Colorado who reports that he often wears a bulletproof vest in public. He said: ''I walk out of my office and the first thing I do is look at the parking garage that the hospital built two

doors away and see if there is a sniper on the roof. I basically expect to be shot any day. . . . It's a war zone. . . . It's very frightening and it ruins your life''.

Now, I recognize that there is a deep divide on the issue of reproductive freedom. And I recognize that there are many heartfelt feelings on both sides of the aisle and even within my own caucus. But, no matter which side of this debate you are on, we should all be able to agree that violence is never the answer.

So today I urge all my colleagues to join me in condemning the kind of senseless violence that led to the death of Dr. George Tiller.

NATIONAL CANCER RESEARCH MONTH

Mr. DODD. Mr. President, I rise today to recognize May as National Cancer Research Month. This year, nearly 1.5 million Americans will be diagnosed with cancer and more than 500,000 will die from the disease. Of course, when we talk about cancer, we are referring to more than 200 diseases but taken together, cancer remains the leading cause of death for Americans under age 85, and the second leading cause of death overall.

In my capacity as a member of the Senate Committee on Health, Education, Labor, and Pensions, I have spent my career fighting alongside my colleagues to provide increased funding for medical research to ensure that organizations like the National Institutes of Health have the ability to continue their critical lifesaving work. It remains my hope that, as the NIH continues to provide us with new and innovative research and treatments, we will continue to provide them with the resources they need.

As a person directly affected by cancer, I believe we must continue to strengthen our Nation's commitment to this lifesaving research for the health and well-being of all Americans. The nation's investment in cancer research is having a remarkable impact. Discoveries and developments in prevention, early detection, and more effective treatments have helped to find cures for many types of cancers, and have converted others into manageable chronic conditions. The 5-year survival rate for all cancers has improved over the past 30 years to more than 65 per cent, and advances in cancer research have had significant implications for the treatment of other costly diseases such as diabetes, heart disease, Alzheimer's, HIV/AIDS and macular degeneration.

I take this opportunity not only to mention the value and importance of cancer research, but also to remember the people in my life who have been touched by this disease. Last year alone, we lost not only my sister Martha, but my dear friend Ted Kennedy to aggressive forms of cancer. Like many of my constituents whose lives have been touched by cancer, I think of them every day—and their battles strengthen my resolve to fight for better treatment and more cures.

I want to thank every one of my constituents who have come to my office to meet with my staff and me about this disease. It is no secret that cancer touches the lives of more Americans than those who are just diagnosed with it—friends and family also face the difficulty of supporting their loved ones through these hard times. I know how much time, effort and resources they expend on these trips. Many of them are sick or in recovery, or taking care of very ill loved ones, yet they still find the time to come down and share their stories with us, and I thank them for it. Their stories, anecdotes and struggles give a face to the people all across the country whose lives are touched by this important research, and hearing about them help us to do our jobs better. We could not have gotten health care reform passed without their constant efforts and support.

In commemorating May as National Cancer Research Month, we recognize the importance of cancer research and the invaluable contributions made by scientists and clinicians across the U.S. who are working not only to overcome this devastating disease, but also to prevent it. I lend my support as a father of two girls, as a husband, and as a public servant to supporting those who struggle with this deadly disease and I urge my colleagues to join me and do the same.

MILITARY AND OVERSEAS VOTER EMPOWERMENT (MOVE) ACT OF 2009

Mr. SCHUMER. Mr. President, since becoming chairman of the Committee on Rules and Administration with jurisdiction over Federal elections, I have come to have a better appreciation for and deeper understanding of the obstacles and barriers that our military men and women serving abroad and at home and U.S. citizens living in foreign lands encounter when they try to vote.

As I explained at a Rules Committee hearing held in May of 2009, every couple of years around election time, there is a great push to improve military and overseas voting. But as soon as the election is over, Congress all too often forgets the plight of these voters.

But last year, Congress delivered. Our motive was simple—we wanted to break down the barriers to voting for our soldiers, sailors, and citizens living overseas. On a bipartisan basis, we agreed that it was unacceptable that in the age of global communications, many active military, their families, and thousands of other Americans living, working, and volunteering in foreign countries cannot cast a ballot at home while they are serving or living overseas. For our military, what especially moved us to act was the fact that they can fight and put their life on the line for their country, but they can't choose their next commander-in-chief. This shouldn't happen—not in the United States of America where elections are the bedrock of our democracy.

With the 2010 elections less than 7 months away, a new law is on the books. The provisions of the Military and Overseas Voter Empowerment Act, MOVE Act, of 2009 were incorporated in Public Law 111–84, the National Defense Authorization Act of 2010. This law will make it easier for members of our Armed Forces and citizens living abroad to receive accurate, timely election information and the resources and logistical support to register and vote and have that vote count.

Mr. President, a legislative history of the MOVE Act is as follows:

BACKGROUND AND PURPOSE OF THE MOVE ACT

American citizens believe voting is one of the most treasured of our liberties and a right to be defended at any cost. It is therefore unacceptable that our military men and women serving abroad and at home, who put their lives on the line every day to defend this right, often face obstacles in exercising their right to vote.

Empirical evidence confirms that members of the military and citizens living overseas who have attempted to vote through the absentee balloting procedures that has been in place for the last 30 years were often unable to do so. The reasons were many, including insufficient information about military and overseas voting procedures, failure by States to send absentee ballots in time for military and overseas voters to cast them, and endemic bureaucratic obstacles that prevent these voters from having their votes counted. While the Uniformed and Overseas Citizens Absentee Voting Act, UOCAVA, enacted in 1986, created a Federal framework for both military and overseas citizens to vote it was clear that, in order to break down these barriers to voting, UOCAVA was in need of an overhaul.

A history of congressional efforts to aid military and overseas voters highlights the obstacles faced by these voters. In 1942, the first Federal law was enacted to help military members vote in Federal elections. The Soldier Voting Act of 1942 was the first law to guarantee Federal voting rights for servicemembers during wartime. It allowed servicemembers to vote in elections for Federal office without having to register and instituted the first iteration of the Federal Post Card Application for servicemembers to request an absentee ballot. Though this was a commendable first effort by Congress, the 1942 law's provisions only applied during a time of war, and barriers to voting remained. In 1951, President Truman commissioned a study from the American Political Science Association on the problem of military voting. Recognizing the difficulties faced by military members serving overseas during World War II and the Korean War in trying to vote, President Truman wrote a letter to Congress that called on our legislators to fix the problem. In response, Congress passed the Federal Voting Assistance Act, FVAA, in 1955 which recommended—but did not guarantee—absentee registration and voting for military members, Federal employees serving abroad, and members of service organizations affiliated with the military. In 1968, FVAA was amended to cover U.S. citizens temporarily living outside of the United States, thus increasing the number and scope of U.S. citizens that fell within the law's purview. In 1975, the Overseas Citizens

Voting Rights Act at last guaranteed military and overseas voters the right to register and vote by absentee procedures. In 1986, Congress enacted UOCAVA as the primary military and overseas voting law, incorporating the expansion of rights granted under prior Federal legislation and making several significant advances to improve military and overseas voting. UOCAVA has been the operational voting framework provided to military and overseas voters.

UOCAVA's main provisions placed several mandates on States. First, States must allow members of the uniformed services, their families, and citizens residing overseas to register and vote by absentee procedures for all elections for Federal office including all general, primary, special and runoff elections. Second, States are required under UOCAVA to accept and process all valid voter registration applications submitted by military and overseas voters—as long as the application is received no less than 30 days prior to an election. Third, UOCAVA created the Federal write-in absentee ballot, FWAB, a failsafe backup ballot for Federal general elections.

Congress has amended UOCAVA several times over the last 24 years. The 1998 amendments included certain reporting requirements on States to provide information on military and overseas voting participation; and the 2001 amendments required States to accept the Federal Post Card Application, FPCA, as a combined voter registration and absentee ballot request form, and gave voters the opportunity to request that the FPCA be a standing absentee ballot request for each subsequent Federal election in the voter's State that year. In 2002, the Help America Vote Act, HAVA, modified this provision to allow voters to automatically request an absentee ballot through the FPCA for the two subsequent regularly scheduled Federal election cycles after the election for which the FPCA was originally submitted. HAVA also added a number of substantive provisions to UOCAVA, including a provision to give voting assistance officers the time and resources to provide voting guidance and information to active duty military personnel, a mandate that the Secretary of each branch of the Armed Forces provide information to service personnel regarding the last date that an absentee ballot can reasonably be expected to arrive on time, and a requirement that States identify a single office for communication with UOCAVA voters. Finally, Congress amended UOCAVA in 2004 to allow military personnel to use the Federal write-in absentee ballot, or FWAB, from within the territorial United States.

Despite these improvements over the years, evidence revealed that significant barriers to voting continued for military and overseas citizens. Registration among military voters has been shown to be substantially lower than among other voting-eligible U.S. citizens. According to testimony submitted by hearing witnesses, in 2006, the registration rate among military personnel was 64.86 percent compared to a registration rate of 83.8 percent for the general voting age population. According to one survey of military and overseas voters conducted after the 2008 election, of those overseas voters who wanted to vote but were unable to do so, over one-third—34 percent—could not vote because of problems in the registration process. The same survey found that even among experienced overseas voters, nearly one-quarter—23.7 percent—experienced problems during the registration process. Military and overseas voters have had to deal with a lack of information about registration procedures and a slow, cumbersome registration process that often turns into the first roadblock to voting.

Military and overseas voters also have trouble even when they have been able to properly register. The Congressional Research Service, CRS, found that during the 2008 election military personnel and overseas citizens hailing from the seven States with the highest number of deployed soldiers requested 441,000 absentee ballots. Of these, 98,633 were never received by local election officials. Further, survey data shows that two out of every five military and overseas voters, 39 percent—who requested an absentee ballot in 2008 received it from local election officials in the second half of October or later—much too late for a ballot to be voted and mailed back in time to be counted on election day. Sending absentee ballots too late to have the opportunity to actually vote is an unacceptable situation for military and overseas Americans.

Finally, some States reject ballots from military and overseas voters for reasons unrelated to voter eligibility, including unnecessary notarization requirements and criteria such as the paper weight of the ballot or ballot envelope. As many as 13,500 ballots were rejected from military and overseas voters from the seven States with the greatest number of troops deployed overseas.

These numbers are totally unacceptable. These barriers effectuate rampant disenfranchisement among our military and overseas voters. Congress has a compelling interest to protect the voting rights of American citizens, and it is especially incumbent upon Congress to act when those very individuals who are sworn to defend that freedom are unable to exercise their right to vote.

The need for sweeping improvement was clear. The Military and Overseas Voter Empowerment Act is a complete renovation of UOCAVA that brings it into the twenty-first century and streamlines the process of absentee voting for military and overseas voters through a series of common sense, straightforward fixes.

First, it allows military and overseas voters to request, and when so requested, requires States to send, registration materials, absentee ballot request forms, and blank absentee ballots electronically. It ensures that military and overseas voters have at least 45 days to receive and complete their absentee ballots and return them to election officials. The legislation also requires that absentee ballots from overseas military personnel be sent through expedited mail procedures, making it faster and easier to send voted ballots back to local election officials. In addition, it prevents election officials from rejecting overseas absentee ballots for reasons not related to voter eligibility, like paper weight and notarization requirements.

Second, the MOVE Act expands accessibility and availability of voting resources for military and overseas voters. It shores up the Federal Voting Assistance Program, or FVAP, an organization within the Department of Defense, DOD. Under the provisions of MOVE, FVAP will make a number of improvements to its voter education efforts for our military and other Americans living and working abroad and serve as the central administrative office for carrying out the Federal responsibilities under UOCAVA and MOVE. It also increases the usability and accessibility of the FWAB. This failsafe ballot allows military and overseas voters to vote even when they face a situation where they don't receive a State-issued ballot in time. In addition to all these improvements, the legislation advances voter registration for our military by directing each of the Secretaries of the military departments to designate offices in military installations where soldiers and their families can register to vote, update their registration information, and request an absentee ballot.

The MOVE Act also aims to secure future voting rights for military and overseas voters. It increases accountability for future elections by directing the Department of Defense to regularly report to Congress on their activities for implementing the programs and requirements under MOVE, including information on ballot delivery success rates. It also authorizes the Defense Department to create a pilot program testing new technologies for the future benefit of military and overseas voters.

The enactment of the provisions of the MOVE Act brings to an end a system that could ever allow a quarter of ballots requested by U.S. troops to go missing. It instead aims to ensure that every single military and overseas vote be counted.

COMMITTEE HEARING AND CONSIDERATION AT MARKUP

The Committee on Rules and Administration held a hearing on May 13, 2009, which I chaired entitled ''Hearing on Problems for Military and Overseas Voters: Why Many Soldiers and Their Families Can't Vote.'' The first panel consisted of one witness, Gail McGinn, Acting Under Secretary for Personnel and Readiness for the Department of Defense. Testifying on the second panel were Patricia Hollarn, board member of the Overseas Vote Foundation and former supervisor of elections in Okaloosa County, FL; Donald Palmer, director of the Division of Elections at the Florida Department of State; LTC Joseph DeCaro, active duty member of the U.S. Air Force, on his own behalf; Eric Eversole, former attorney at the Department of Justice Civil Rights Division, Voting Rights Section, adviser to the McCain-Palin campaign, and former member of the Navy's Judge Advocate General Corps from 1999–2001; and Robert Carey, executive director of the National Defense Committee.

The hearing focused on the reasons why so many military and overseas voters find it difficult or impossible to effectively cast their ballots, with special attention paid to recommendations from the witnesses who possess extensive experience with the military and overseas absentee voting process. The hearing opened with a discussion of the preliminary results from a study of military and overseas voting in 2008 conducted by the Congressional Research Service. The findings showed that in several of the largest military voting States, up to 27 percent of the ballots requested by military and overseas voters were not counted for one reason or another.

Letters from soldiers serving abroad who wanted to cast ballots in 2008 but were unable to do so were shared. One letter from a soldier in Alaska concisely summarized the problem underscored by the hearing: ''I hate that because of my military service overseas, I was precluded from voting.''

Gail McGinn, Acting Under Secretary for Personnel and Readiness at the Department of Defense, testified in detail about the logistical and administrative challenges facing military and overseas voters. Ms. McGinn identified time, distance, and mobility as the chief logistical barriers to these voters. She said, ''Our legislative initiatives for states and territories to improve ballot transit time are, first, provide at least 45 days between the ballot mailing date and the date that ballots are due; give state chief election officials the authority to alter elections procedures in emergency situations; provide a state write-in absentee ballot to be sent out 90 to 180 days before all elections; and expand the use of electronic transmission alternatives for voting material.'' Ms. McGinn further pointed out that 23 States do not provide the minimum of a 45-day round trip for military and overseas absentee ballots. Patricia Hollarn, board member of the Overseas Vote Foundation and

former supervisor of elections in Okaloosa County, FL, testified about her personal experience with local election officials who, she said, had a lot of confusion about the proper absentee balloting procedures they needed to provide for overseas citizens and military personnel. She echoed Ms. McGinn in recommending that States and local jurisdictions provide a minimum of 45 days for absentee ballots to be delivered to overseas voters, completed, and returned before the state's deadline. She also emphasized the logistical challenge facing the U.S. Postal Service and military mail service with respect to the speedy delivery of overseas ballots.

Donald Palmer, director of the Division of Elections for the Florida Department of State, testified about Florida's experience serving its military and overseas voters. Mr. Palmer said that providing 45 days for ballot transmission and delivery, as Florida does, is ''prudent'' and ''absolutely necessary, when relying solely on the mail service.'' Mr. Palmer also discussed Florida's experience using technology, including e-mail, fax, and the Internet, to communicate with military and overseas voters and transmit balloting materials to and from Americans abroad. Mr. Palmer testified about an invitation from the Department of Defense for Secretaries of State to travel to the Middle East and see firsthand how soldiers receive their absentee ballots. Florida Secretary of State Kurt Browning relayed to Mr. Palmer that soldiers abroad many times do not have access to fax machines and often use e-mail as a primary source of communication and expressed their desire to be able to use email or the internet to transmit balloting materials to local election officials. Mr. Palmer also detailed pilot programs in Florida which have used new technologies to facilitate ballot transmission from abroad. He also described Florida's efforts to work with the U.S. Postal Service to reduce error rates in ballot delivery and to use intelligent code technology to track absentee ballots while in the Continental United States.

United States Air Force LTC Joseph DeCaro, testifying on his own behalf, described his personal experiences with absentee voting while serving abroad in 2004. His experience illustrates the burdens facing uniformed servicemembers overseas who want to vote:

Every moment I spent researching and coordinating with state-side resources to be able to cast my ballot was against any personal time off. The mission is and always must be the main focus. Being deployed is difficult enough as it is . . . I think every American should do what they can to cast their ballot and make their voice heard. As with many other citizens, I will continue to do this, but there should be a better way in which [service personnel can] cast their ballot while deployed.

Lieutenant Colonel DeCaro also lamented that he had no way of knowing whether the ballot he mailed to his local election office would ever reach its destination.

Eric Eversole, former attorney at the Department of Justice Civil Rights Division, Voting Rights Section, began his testimony by arguing that ''when it comes to the military members' right to vote, we seem to forget their sacrifices and we deny them the very voting rights that we ask them to defend.'' He cited statistics which showed that only 26 percent of Florida's deployed servicemembers were able to successfully request an absentee ballot in 2008. He also echoed prior testimony that States should mail out absentee ballots to military and overseas voters at least 45 days before the local deadline to have the ballot count. Mr. Eversole testified about the need for improvements in the Federal Voting Assistance Program. Mr. Eversole strongly advocated for military personnel to receive appropriate voting information and voter registration materials when they move or deploy to a new installation or port. In response to a question I asked, Mr. Eversole also testified that certain offices at the Department of Defense should be designed as voter registration agencies under the National Voter Registration Act.

Robert Carey, executive director of the National Defense Committee, testified about his own experience taking a leave of absence from his duty as a member of the U.S. Navy Reserves and flying back to New York City at his own expense in order to vote in the 2004 election. He cited research showing that only 26 percent of the ballots requested by overseas soldiers in 2006 were successfully cast. Mr. Carey emphasized that insufficient time was the chief reason for these statistics, arguing that States too often send out ballots too late for military voters to complete and return them in time to be counted. He pointed to a study conducted by the Pew Center on the States, Pew, which found that 23 States do not provide enough time for military and overseas voters to successfully cast their ballots. Mr. Carey also recommended that ballots be sent out at least 60 days before they were due.

Several organizations submitted statements for the hearing record. Pew submitted a copy of its 2009 study of military and overseas voting, No Time to Vote, for the committee record. In its accompanying letter, Pew highlighted several recommendations for reform from the study, including ''sending out overseas absentee ballots sooner, eliminating notary and witness requirements and harnessing technology to allow for the electronic transmission of ballots and election materials to voters overseas.''

The Overseas Vote Foundation, OVF, submitted a copy of its 2008 post-election survey for the record. The survey included data obtained from over 24,000 overseas voters and over 1,000 local election officials. Among OVF's key findings was that more than half, 52 percent, of those overseas military voters who tried but could not vote were unable to because their ballots were late or did not arrive. OVF also found that despite concerted efforts, less than half of UOCAVA voters were aware of the Federal write-in absentee ballot.

Democrats Abroad submitted a statement for the record emphasizing the difficulties for military and overseas voters stemming from the patchwork of varied State and local regulations, a lack of awareness of the Federal write-in absentee ballot, and general inability to effectively communicate with local election officials from abroad.

Tom Tarantino, legislative associate with Iraq and Afghanistan Veterans of America, submitted a statement for the record including testimony about his own experience as a voting assistance officer, citing the lack of sufficient training about how to effectively educate soldiers about absentee balloting procedures. Mr. Tarantino recommended improving the voting assistance officer program and suggested that the Department of Defense be required to ensure safe and timely passage of military ballots to their home districts.

The Federation of American Women's Clubs Overseas submitted a statement for the record in which it recommended that States send overseas absentee ballots at least 45 days before the deadline and that voter materials, including ballots, not be rejected for reasons unrelated to voter eligibility.

Everyone Counts submitted a ''white paper'' for the record comparing the effectiveness of various voting technologies for military and overseas voters.

Alex Yasinac, dean of the School of Information and Computer Sciences at the University of South Alabama, submitted a statement for the record analyzing various technological solutions to improve overseas absentee voting. Dr. Yasinac suggested the creation of a technological pilot program for overseas voters, including the use of virtual private networks, cryptographic voting systems, and document delivery upload systems to ensure secure electronic transmission of balloting materials.

INTRODUCTION OF THE BILL

I introduced S. 1415, the MOVE Act of 2009, on July 8, 2009, and was joined by Senators Saxby Chambliss and Ben Nelson as original cosponsors. After the bill's introduction, 56 additional Senators joined as cosponsors. The bill was referred to the Senate Committee on Rules and Administration.

COMMITTEE CONSIDERATION AT MARKUP

S. 1415 was considered by the Senate Rules Committee at a markup held on July 15, 2009. The committee adopted three amendments which I submitted on behalf of Senator John Cornyn, who had introduced separate legislation on improving military voting that was pending at the time in the Rules Committee. Senator Cornyn joined in this endeavor by contributing his knowledge and expertise on military voting to the MOVE Act. Senator Robert Bennett, ranking member of the Rules Committee, introduced an amendment with several provisions intent on improving the effectiveness of the MOVE Act.

The first amendment, which I submitted on behalf of Senator Cornyn, strengthened the bill by ensuring that overseas military personnel can mail their marked absentee ballots to their local election offices with confidence that those ballots will be received and counted by directing the Presidential designee to work with the U.S. Postal Service to provide expedited delivery services for ballots that are collected before a prescribed deadline. The provision provides ample discretion for the Presidential designee to extend that deadline for collection of ballots, allowing the Presidential designee to permit a longer transit time for completed ballots to be delivered to local election officials. To ensure Department of Defense accountability under this section, the amendment directed the Presidential designee to submit reports to the relevant congressional committees to explain the procedures implemented to provide the expedited mail delivery and inform the committees of the number of military overseas ballots successfully and unsuccessfully delivered to local election offices in time. Finally, the amendment included language requiring the Presidential designee to ensure, to the greatest extent allowable, that the privacy of military servicemembers and security of their ballots are protected during the delivery process.

The second amendment, which Senator Cornyn and I worked on together, fortified the bill by expanding voter registration opportunities, services, and information for military and overseas voters. It also required the Department of Defense to provide voting information and an opportunity for servicemembers to register and update voting information during certain points in service and provided the Secretary of Defense flexibility to designate certain pay, personnel, and identification offices as voter registration agencies. In addition to voter registration, the amendment required written information to be provided to servicemembers on absentee ballot procedures. Finally, the amendment contained reporting requirements for the Department of Defense to evaluate its voter support services and send Congress its

recommendations for improving those programs.

The third amendment was technical in nature and altered no substantive provisions of the bill.

Ranking Member Bennett offered a package of amendments modifying several provisions of the bill. First, the amendment clarified that States may delegate the obligations under the MOVE Act to local jurisdictions. Some local and State election administrators contacted the Rules Committee to express concern because they thought that the MOVE Act could be interpreted to require States, instead of localities, to take administrative responsibility for running elections for UOCAVA voters. Though there was no intent to shift routine administrative responsibility of elections to States, for the sake of clarity in the bill, I supported this amendment. While clarifying that the MOVE Act can be administered and implemented at the local level, the amendment did not modify or otherwise alter the ultimate responsibility of MOVE Act compliance, which remains with the State. Accordingly, States retain the responsibility to ensure local jurisdictions' compliance with UOCAVA and MOVE and thus the State will continue to be the focus of any potential enforcement actions that need to be taken by the Attorney General.

Senator Bennett's amendments also modified provisions of the MOVE Act which had originally required States to transmit balloting materials ''by mail, electronically, or by facsimile.'' The text of the amendment instead read to require transmission of balloting materials ''by mail and electronically.'' This change clarified the requirement on State and local election administrators that, in addition to mail, they must provide at least one method of fast and effective electronic means of transmitting balloting materials to U.S. citizens overseas and uniformed servicemembers. It is important to note that Bob Carey during his testimony before the Rules Committee on May 13, 2009, testified that ''[R]ecent research by the National Defense Committee indicates that fax transmission is not an effective option for military personnel, especially those suffering the greatest disenfranchisement in this process.'' However, at the same time, the amendment's language clarified that election administrators may provide multiple means of electronic communication in order to ensure speedy transmission of information, registration and balloting materials.

Senator Bennett's amendments also reinforced the privacy and security provisions of the original legislation by directing States to protect, to the extent practicable, the integrity of the voter registration and absentee ballot process through procedures that shield identity and personal data.

The amendments also simplified the timing provisions of the original legislation by mandating that whenever a State receives an absentee ballot request at least 45 days before a Federal election it must send out an absentee ballot not later than 45 days before the election. With respect to valid ballot applications received after 45 days prior to such an election, States are required to transmit a validly requested absentee ballot in accordance with State law and as expeditiously as possible. However, the amendment did not impact the 30-day requirement under UOCAVA. At the same time, the amendment removed language from the original version of the bill which would have required States to accept and count absentee ballots received up to 55 days after the date on which an absentee ballot was transmitted or the date on which the State certified an election, whichever was later. The negotiated modification placed a 45-day mandate on States to promptly respond to military and overseas absentee ballot requests.

The amendments also strengthened Department of Justice oversight of absentee voting by uniformed services and overseas voters by requiring the Presidential designee to consult with the Attorney General before approving any hardship exemptions from States unable to comply with the bill's timing provisions. This will help ensure a unified governmental response to State compliance with the MOVE Act.

Finally, the amendments repealed subsections (a) through (d) of §104 of the Uniformed and Overseas Absentee Voting Act, which allowed military and overseas absentee ballot applicants to indicate on their Federal Postcard Application form that their application should be considered a continuing application for an absentee ballot through the next two regularly scheduled general elections. Given the highly mobile nature of military and overseas voters, there was a concern among States that this provision of UOCAVA required a large number of ballots to be sent to old and outdated addresses. Election officials reported receiving a large number of these continuing absentee ballots as ''returned undeliverable,'' thus artificially inflating the number of failed ballots, and potentially wasting State resources. Repealing these sections addressed those concerns. This amended section does not prohibit States from providing continuing applications for absentee ballots, or accepting ballots received under such continuing applications. This amended section also does not prohibit States from considering a Federal Postcard Application submitted for a primary election to carry over to the general election in that same election cycle.

The committee agreed to all of the proposed amendments and adopted them by voice vote. The committee then voted to report S. 1415, the Military and Overseas Voter Empowerment Act, as amended. The committee proceeded by voice vote, and all members present became cosponsors of the legislation. S. 1415, as amended, was ordered reported to the Senate.

PASSAGE BY THE SENATE OF THE MOVE ACT PROVISIONS IN THE DOD AUTHORIZATION BILL

On July 22, 2009, I offered Senate amendment No. 1764 to S. 1390, the National Defense Authorization Act for fiscal year 2010, on the Senate Floor.

Senator Cornyn spoke in support of this amendment that day:

Our military servicemembers put their lives on the line to protect our rights and our freedoms. Yet many of them still face substantial roadblocks when it comes to something as simple as casting their ballots and participating in our national elections . . . This important amendment contains many other commonsense reforms suggested by other Senators and will help end the effective disenfranchisement of our troops and their families. Our goal has been to balance responsibilities between elections officials and the Department of Defense, and I believe this amendment accomplishes that goal.

On July 23, 2009, I urged my colleagues to support the MOVE Act amendment to the DOD authorization legislation:

Now, if [our soldiers] can risk their lives for us we can at least allow them to vote. They take orders from the commander-in-chief. They are the first people who ought to be allowed to elect and vote for a commander-in-chief. And if we can deploy tanks and high-tech equipment and food to the front lines, we can figure out a way to deliver ballots to our troops so they can be returned and counted. And that, Mr. President, is what the MOVE Act does.

Senator Bennett spoke in support of the amendment:

Now, then the legislation was introduced in its original form, I raised concerns with Senator Schumer about some of its provisions. He worked with me and my staff to address these concerns and the amendment that we have before us today effectively does so. That's why I'm pleased to now be a cosponsor of the bill. The difficulties our service personnel face in voting and the Senator from New York has described them, and I believe this amendment deals with them in a proper fashion.

Senator Chambliss also spoke in support of the amendment:

[N]ot since the passage of the Uniform and Overseas Voting Act in 1986 have we proposed such significant legislation designed to help the men and women of the military who time and time again are called upon to defend the rights and freedoms that we Americans hold so sacred. Unfortunately, our military's one of the most disenfranchised voting blocs we have and today we have the opportunity to correct this.

Senator Nelson also added comments in support:

We owe it to our men and women in uniform to protect their right to vote. And for military and overseas votes, that right is only as good as their ability to cast a ballot and have it counted. For years, we have known of the obstacles these brave Americans face in exercising their right to vote, often when far from home and in harm's way. I firmly believe this legislation will make a huge impact in empowering our military and overseas voters to have their votes counted no matter where they find themselves on election day.

Senate amendment No. 1764 to S. 1390 was agreed to by voice vote on July 23, 2009. The Senate took up H.R. 2647 on July 23, approved an amendment that substituted the text of S. 1390, then passed the bill by unanimous consent and requested a conference with the House. A Senate-House conference was held, and the House passed the conference report to H.R. 2647, H. Rept. 111–288, on October 8, 2009, and the Senate passed it on October 22, 2009. H.R. 2647 was signed by the President on October 28, 2009, and became Public Law 111–84.

THE MOVE ACT TODAY

The Military and Overseas Voter Empowerment Act of 2009 is a response to an unacceptable situation—the disenfranchisement of Americans serving and living abroad who are unable to vote because of logistical and geographic barriers.

The MOVE Act brings to an end a system that in the past allowed a quarter of the ballots requested by U.S. troops to go unreturned. It does so by insisting that every military and overseas vote be counted. Congress recognized that those who fight to defend America's freedom often face the greatest obstacles in exercising their right to vote. Congress acted to break down the challenges and barriers to voting faced by these citizens with passage of the provisions of the Military and Overseas Voter Empowerment Act.

Most of the MOVE Act provisions will be in place for the November 2010 general elections. States started implementing measures and procedures to comply with the MOVE Act almost immediately after passage of Public Law 111–84. At the Federal level, the Department of Defense has been in consultation with the Attorney General to develop and promulgate regulations to administer the waiver process. As the 2010 Federal election approaches, the States and the Department of Defense are making every effort to

ensure that military and overseas voters have every opportunity to register, vote, and have their vote counted.

Mr. President, I ask unanimous consent that a section-by-section of the MOVE Act provisions in the National Defense Authorization Act for fiscal year 2010 be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF THE MOVE ACT IN THE NDAA

The following is an explanation of each provision of the bill, what it does, and how it improves the ability of military and overseas voters to register, vote, and have their votes count in elections. It should be noted that in conference, there were two major substantive changes in the MOVE Act provisions as passed by the Senate.

One, the section on ''Findings'' was stricken. The ''Findings'' section provided an explanatory foundation for MOVE and why it was critical for its provisions to be enacted. It highlighted the fundamental nature of the right to vote; the logistical, geographical, operational, and environmental barriers that create obstacles for military and overseas voters to exercise their right to the franchise; the central role shared by States and the Department of Defense in overseeing and facilitating military and overseas voting; and the need for the relevant State, local, and Federal government entities to work together to ensure the ability of military and overseas voters to have their ballots count.

Two, the responsibilities attributed to the Department of Defense in ensuring military voters can effectively register to vote was changed in conference from the Senate-passed version. The reason for this change is explained in the summary of Section 583.

Section 575. Short title.

Title: ''Military and Overseas Voter Empowerment Act''.

Section 576. Clarification regarding delegation of State responsibilities to local jurisdictions.

This section clarifies that while the MOVE Act contains a number of mandates on the States with respect to military and overseas absentee voting, States remain free to delegate those responsibilities to local officials as they did under UOCAVA. In effect, this provision puts States on notice that the MOVE Act does not intend to and does not in fact take administrative control of military and overseas voting out of the hands of local officials. Compliance with MOVE's mandates, however, ultimately remains a State responsibility, and States will continue to be the main entity against which the provisions of MOVE and UOCAVA will be enforced should enforcement by the Department of Justice become necessary.

Section 577. Establishment of procedures for absent uniformed services voters and overseas voters to request and for States to send voter registration applications and absentee ballot applications by mail and electronically.

This section amends UOCAVA to require States to allow military and overseas voters the choice of requesting voter registration applications and absentee ballot applications either by mail or electronically. It mandates that the voter's choice of mail versus electronic extends to the mode of delivery of both the voter registration and absentee ballot applications. States must give all UOCAVA voters the option of receiving their applications by mail or electronically. To ensure military and overseas voters have an opportunity to choose their desired delivery method, States must provide a way for voters to designate their preferred method of delivery, and States are required to send these materials in accordance with the voter's designation. If no delivery preference is indicated, States are to transmit these materials according to applicable State law or, in the absence of such law, by mail. The requirements of this section apply to all general, special, primary, and runoff elections for Federal office.

Allowing military and overseas voters to request and receive voter registration and absentee ballot applications electronically requires States to establish at least one means of electronic communication for military and overseas voters to use. States are free to establish multiple means of electronic communication if they wish. In addition to using the electronic format to give voters the option of requesting and receiving voter registration and absentee ballot applications, it is also to be used to provide any other related voting, balloting, and election information requested by or otherwise provided to the voter.

In addition to email and the Internet, this provision contemplates the use of fax machines as a legitimate means of electronic transmission. This gives States an additional method of electronic communication. However, it is important to note that the Rules Committee received testimony regarding the challenges of solely relying on fax technology for military and overseas voting. Robert Carey, the Executive Director of the National Defense Committee pointed out in his written testimony that ensuring the privacy of a faxed absentee ballot is difficult. He also cited research indicating that only 39% of junior enlisted personnel had daily access to a fax machine. This provision therefore contemplates the use of fax technology as States gradually transition to more accessible forms of transmission for military and overseas voters through internet and email usage.

Information about how to communicate with States electronically, including any official designated email, web addresses, and phone numbers, should be readily accessible and is required to be included with any informational or instructional materials that accompany balloting materials sent to military and overseas voters.

The provisions of this section are a direct response to evidence gathered by the Rules Committee that showed lengthy mail transit times for voting materials, including registration forms and absentee ballot applications. This was a fundamental reason why so many of these voters did not have enough time to vote, and it showed the difficulty military and overseas voters have in communicating efficiently and effectively with State and local election officials. Taking advantage of modern technology is an important part of the solution to the ''no time to vote'' problem. The testimony of Lieutenant Colonel Joseph DeCaro at the Rules Committee's May 2009 hearing, in which he repeatedly expressed his gratitude for internet connectivity while serving in Air Force and described how he was able to use email to quickly communicate with local election officials, is particularly instructive. Lt. Colonel DeCaro testified that postal mail can sometimes take up to three weeks to reach its destination.

Compliance with this provision of the law may save States a substantial amount of money. Using a multiplier of $12.95 for a 1 oz. United States Postal Service Priority Mail international flat-rate mailing, States can potentially save as much as $1,295,000 for every 100,000 military and overseas voters that utilize electronic transmission methods of sending voter registration and ballot request materials.

This section also directs the Federal Voting Assistance Program of the Department of Defense to maintain and make available an online repository of State contact information with respect to Federal elections for use by military and overseas voters. The repository should include contact information for all the relevant State and local election officials in each State, including any designated email and Internet addresses and phone and fax numbers instituted to comply with the provisions of this law.

Finally, this section contains additional provisions directing States, to the extent practicable, to ensure the integrity of the voter registration and absentee ballot request process, as well as the protection of personal data.

Section 578. Establishment of procedures for States to transmit blank absentee ballots by mail and electronically to absent uniformed services voters and overseas voters.

This section amends UOCAVA to require States to establish procedures for transmitting blank absentee ballots to military and overseas voters both by mail and electronically for all general, special, primary, and runoff elections for Federal office. States are to use the preferred method of transmission identified by the voter and institute a procedure for allowing the voter to designate whether their preferred delivery method is by mail or electronic delivery. As in the previous section, if no delivery method is specified, States should follow applicable State law or, in the absence of such law, should deliver the blank absentee ballot to the voter by mail.

Additionally, this section contains the same language with respect to election integrity and voter privacy as the prior section, and the same rationale for the efficiency and effectiveness of electronic transmission also applies to this section with equal force.

Section 579. Ensuring absent uniformed services voters and overseas voters have time to vote.

This section amends UOCAVA to require States to transmit validly requested absentee ballots to military and overseas voters not later than 45 days before an election for Federal office, if a ballot request form is received by the relevant local election official at least 45 days before the election. In a circumstance when the absentee ballot request is received less than 45 days before the election, States must transmit a validly requested absentee ballot in accordance with State law and in as practicable a manner as possible that expedites the ballot's transmission so that the voter receives the ballot with enough time to cast the ballot and to have it counted. If States receive an absentee request less than 45 days before the election that contains an electronic delivery designation and related contact information, the State can expedite the blank ballot by electronic means. Of course, the UOCAVA voter still may request his or her ballot to be sent by mail. States may not be able to send the ballot electronically if the State lacks the necessary information, for example a correct email address or facsimile number.

The language ''validly requested'' in the MOVE Act refers to how this provision interacts with the pre-existing UOCAVA statute. Under §102a(2) of UOCAVA, each State is required to ''accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election.'' The language ''validly requested'' in MOVE refers to applications that are received by local election

officials in accordance with §102a(2). It should be noted that although UOCAVA requires election officials to accept and process applications up to at least 30 days before an election under §102a(2), States are of course free under UOCAVA to shorten that time period to less than 30 days to give military and overseas voters more time to send in their applications. In such circumstances, the language ''validly requested'' also refers to ballots that are requested in time under the more permissive State law.

Also relevant here is that UOCAVA, as amended by the MOVE Act, creates a 15-day ''gap'' in which a State might receive an absentee ballot application from a military or overseas voter less than 45 days in advance of an election, and thus cannot comply with the 45-day rule under MOVE, but is still required to accept and process the application due to the 30-day rule under §102a(2). To ensure that military and overseas voters whose applications are received during this 15-day gap are given enough time to vote, the MOVE Act directs States to transmit such ballots ''in accordance with State law,'' which is a directive for States to deliver ballots in accordance with any procedures that may exist under State law for transmitting ballots to UOCAVA voters, and in as practicable a manner as possible that expedites the ballot's transmission. This shall not supersede the MOVE requirement that UOCAVA voters be able to designate their preferred method of ballot delivery (mail or electronic) and the State's obligation to comply. State law may allow state election officials to fulfill requests that arrive less than 30 days before the election.

The ''time to vote'' provision was at the top of the list for potential reforms of military and overseas voting at the May 2009 Rules Committee hearing, with witnesses for both the Majority and the Minority endorsing such a measure. The original draft of the MOVE Act contained a 55-day mandate, under which States were required to send out ballots 45 days before an election and accept ballots up to 10 days after the election or by the State's certification date, whichever was later. This original provision was a response to complaints that certain jurisdictions refuse to count ballots from UOCAVA voters when those ballots are sent to States on or before Election Day but do not reach State or local election officials until after the polls have closed. However, there were concerns that this post-election requirement would intrude on States' ability to certify their elections in a manner that complies with their respective State laws or constitutions. Therefore the bill was modified to require that ballots be sent out at least 45 days before Election Day. The consensus recommendation emerged for a 45-day requirement following the hearing because it provides sufficient time for UOCAVA voters to request, receive and cast their ballots in time to be counted in the election for Federal office and better accommodates the laws of a number of states.

However, recognizing that circumstances may arise that prevent States from complying with the mandate to send ballots 45 days before Election Day, the MOVE Act also includes procedures whereby States can apply for a waiver from that provision. Waivers are submitted to the Presidential designee who, after consultation with the Attorney General, will decide whether to approve or deny the waiver request. If approved, the waiver is valid only for the election for which the State requested it. MOVE does not contemplate permanent waivers. Nor does MOVE contemplate ''automatic'' renewals of waivers—a waiver that is approved for one election is not automatically valid for or applicable to the State's next election. The reason is to protect UOCAVA voters from situations where a State's plan is approved by the Presidential designee, but ultimately proves insufficient to serve as a substitute for the 45-day rule. For example, if a waiver is granted for an election because the Presidential designee determines that the comprehensive State plan will give military and overseas voters enough time to vote, but evidence subsequently shows that, in practice during the election cycle, the State plan did not provide enough time to vote, a future waiver request with a similar State plan may not be granted just because it had been approved for the prior election. However, if a waiver is approved and the State plan is proven effective, a similar State plan resubmitted in a subsequent election cycle may be approved again. The key is that the State plan must provide adequate substitute procedures so that UOCAVA voters are given an opportunity to vote that is at least as sufficient as if the State complied with the 45-day rule. In some cases, the State waiver plan may provide even greater protection for UOCAVA voters, and such plans would serve the interests of the UOCAVA voters and the intent of the law. Thus state plans that offer protection for UOCAVA voters that is better than or equal to the 45-day provision and procedures that go beyond other minimum requirements for state assistance for those voters could merit repeated waivers.

This section mandates that the Presidential designee can only approve or reject a waiver after consulting with the Attorney General, since the Attorney General is the office that enforces UOCAVA and the provisions of the MOVE Act, and there should be coordination between the two entities. Consultation between the Presidential designee and Attorney General will promote consistency so that election officials do not receive mixed messages about the viability of waiver requests.

The Presidential designee may only grant a waiver if a specific standard is met, which is laid out in the MOVE Act. First, the Presidential designee may grant a waiver if one or more of the following circumstances exist to prevent a State from complying with the 45-day rule: (1) the State has a late primary election date, making it impossible to send validly requested ballots to voters 45 days before the election; (2) the State has suffered a delay in generating ballots due to a legal contest, such as a contested primary; or (3) the State's Constitution prohibits the State from complying with the 45-day rule. These are the only three circumstances under which a waiver request may be sought under MOVE.

In addition to a finding that at least one of these circumstances exists, the waiver request itself must include, in writing, the following: a recognition of the need to provide overseas voters with enough time to vote; an explanation of the hardship that prevents the State from transmitting absentee ballots 45 days before the election; the number of days prior to the Federal election that the State will transmit absentee ballots to military and overseas voters; and a comprehensive plan ensuring that military and overseas voters are able to receive and return requested absentee ballots in time to be counted. The plan must include the specific steps the State will take to ensure military and overseas voters have time to receive, mark, and submit their ballots in time to have them counted, an explanation of how the plan serves as an effective substitute for the 45-day rule, and relevant information that clearly explains how the plan is sufficient to substitute for the 45-day rule in a manner that allows enough time to vote. States are free to use innovative methods to ensure their comprehensive plan gives military and overseas voters enough time to vote.

Testimony before the Rules Committee supported the practice of some States that accept and count UOCAVA ballots after Election Day as one way of protecting the voting rights of their UOCAVA voters. This can be an acceptable option for states whose constitution and laws allow it and who want that flexibility. States must be mindful that even when they count UOCAVA ballots after an election, those voters may not be aware of that procedure. Therefore, a state should ensure that voters get ballots with enough time to vote and inform them of the state's procedures for receiving and counting ballots.

To summarize, the Presidential designee can issue a waiver only if one or more of three exigent circumstances exists: a prohibitively late primary date; a legal contest that results in a delay in generating ballots; or a conflict with a State's Constitution. In addition, the Presidential designee makes a determination that the State requesting the waiver has submitted an acceptable plan, containing all necessary information, which provides military and overseas voters with enough time to receive, mark, and submit their absentee ballots in time to have that ballot count in the election. The Presidential designee must consult with the Attorney General before approving a waiver request, since the Attorney General is charged with enforcing and ensuring State compliance with the provisions of UOCAVA and MOVE.

Waiver requests must be submitted by the chief State election official to the Presidential designee not later than 90 days before the Federal election for which it is requested, and the Presidential designee must approve or deny the waiver not later than 65 days before the election. If the hardship at issue is a legal challenge arising in a way that makes compliance with the 90-day deadline impossible, the State must submit the waiver request as soon as possible and the Presidential designee will approve or reject it not later than 5 business days after its receipt. It is certainly possible that DOD in consultation with DOJ, rather than rejecting a waiver request, might request the State to make modifications in the waiver request that would allow the waiver to be granted.

A waiver approved by the Presidential designee is valid only for the Federal election for which the State requested it and cannot be used by a State for any subsequent Federal election. If a State wishes to request a waiver for a subsequent Federal election, it must submit another waiver request.

Section 580. Procedures for collection and delivery of marked absentee ballots of absent overseas uniformed services voters.

This section amends UOCAVA by directing the Presidential designee to develop and implement procedures for collecting marked absentee ballots, including the Federal write-in absentee ballot, from absent overseas uniformed services voters, and facilitating their delivery in a manner that ensures that the ballots are received by the appropriate election officials in time to be counted.

This provision was a response to evidence gathered by the Rules Committee about the unpredictable nature of serving overseas. At the Rules Committee hearing in May 2009, Eric Eversole, formerly an attorney with the Department of Justice Civil Rights Division's Voting Rights Section, testified that an expedited mail delivery system would reduce the ballot delivery time. In circumstances, such as unforeseen military action, where overseas military personnel might be prevented from sending in time to be counted, an expedited mail delivery system would compensate for those numerous,

unforeseen factors. This requirement also is supported by the statement from Tom Tarantino, Legislative Associate with Iraq and Afghanistan Veterans of America, that the Department of Defense should be responsible for collecting overseas servicemembers' absentee ballots to ensure their delivery, and to make certain that military voters serving overseas are able to return their ballots in a timely and predictable fashion because to do so is ''the most immediate step that Congress can take in protecting the voting rights of service men and women.'' This provision also incorporates language similar to a legislative initiative introduced by Senator Cornyn, who has advocated for DOD to take a direct role in providing expedited ballot delivery.

This section directs the Presidential designee to establish procedures for collecting absentee ballots from overseas military voters, and to facilitate their delivery so they are received by local election officials in time to be counted. The Presidential designee must work in conjunction with the U.S. Postal Service to provide expedited mail delivery for all absentee ballots from overseas military members. These ballots will be collected up until noon on the seventh day preceding the date of the upcoming election for expedited transmittal. This section also gives the Presidential designee flexibility to change that deadline if remoteness or other factors associated with military service, such as being located in a combat zone, warrant collecting and transmitting ballots prior to the regular deadline to ensure the ballots can be counted in time.

Finally, this section mandates that all ballots sent by military members overseas have to be postmarked by the Military Postal Service with the date the ballot was mailed. In accordance with existing law, it must be carried free of postage. Without a postmark, election officials have been unable to tell when a ballot was mailed, increasing the likelihood of uncounted votes from military personnel. This provision addresses the postmark problem and eliminates the risk of a ballot not being counted for this reason.

In carrying out this provision, the Presidential designee is charged with the responsibility of making certain that overseas military voters are aware of the expedited mail procedures and deadlines involved. The Presidential designee shall do this in a number of ways within his discretion, such as making information available via the Global Military Network, through easily accessible websites frequently used by military members, and in the informational forms made available to military members during critical points in service, such as the administrative in-processing at a new installation or base. A later section of MOVE requires the Presidential Designee to create online information portals and use the Global Military Network to inform military voters of voter registration information and absentee ballot rights.

In drafting this legislation, the Rules Committee considered a direct mandate on the Department of Defense which would have required that absentee ballots be transmitted to the appropriate election officials by a date certain. In consultation with the Department of Defense, however, personnel of that agency responsible for overseeing absentee voting for overseas military personnel expressed concern that complying with such a provision would be beyond its control. Absentee ballots mailed from abroad enter the domestic mail system once those ballots reach the United States and are no longer under DOD control. This section recognizes that reality, while at the same time solidifying the DOD's role in expediting transit times for these ballots so they can reach local election officials in time to be counted.

This section includes three supplemental provisions. First, it directs the chief State election official in each State, working alongside local officials, to develop a free access system whereby all military and overseas voters can track whether or not their absentee ballots have been received by the appropriate election official. This language was suggested by Lt. Col. Joseph DeCaro and others, to ensure that UOCAVA voters know their ballots are similarly situated to domestic absentee voters. Receipt of the UOCAVA ballot by the local election official marks the most important hurdle for overseas voters: getting the completed ballot back to the election office.

Second, it mandates that those soldiers who cast ballots at locations under the jurisdiction of the Presidential designee, such as military installations, are able to cast their ballots as privately and independently as possible. Ensuring the privacy of all voters is important, and military voters should be able to vote in a private and independent manner.

Third, it directs the Presidential designee to ensure, to the extent practicable, that absentee ballots in the possession or control of the Presidential designee remain private. Again, absentee ballot procedures should protect the privacy of the voters, to the extent practicable.

This section only requires expedited mail procedures for overseas service personnel and not all UOCAVA voters. In crafting the legislation, the Rules Committee staff was concerned about the challenges facing non-military overseas voters seeking timely return of their ballots to State election officials. Unfortunately, the problems inherent in engaging every foreign, nonmilitary post office to provide such assistance made this expansion of the expedited mail requirement impractical at the present time. Additionally, several of the challenges justifying the provisions of this section, such as the sporadic lack of postmarks on military mail and unpredictable conditions associated with service, are pervasive problems faced by overseas military personnel. However, under this section State officials are required to develop the tracking system for absentee ballots from both military and overseas voters. Lieutenant Colonel Joseph DeCaro of the United States Air Force testified at the Rules Committee's May 2009 hearing about his frustration at not knowing whether his ballot had been received by State officials. The tracking provision addresses this concern. The Help America Vote Act already requires a free access system to notify voters about whether or not their provisional ballots have been counted. The MOVE Act absentee ballots are not provisional ballots. However, it should not be too difficult for State election officials to develop a system that military and overseas voters can use to get information about the status of their ballots that is similar to the system mandated under HAVA for provision ballots. This will allow those voters to complete FWAB ballots if it becomes clear their ballot was not received in a timely fashion.

Section 581. Federal write-in absentee ballot.

This section amends UOCAVA to expand the availability and accessibility of the Federal write-in absentee ballot and to promote its use among military and overseas absentee voters.

The FWAB functions as a failsafe ballot for military and overseas voters. It allows them to submit this ballot to local election officials in every State in circumstances where they have not received a requested ballot in time from their respective election officials. However, information gathered during Congressional hearings clarified the fact that awareness of the FWAB among military and overseas voters is very low, and therefore an underutilized resource. At the May 2009 hearing on military voting problems held by the Elections Subcommittee of the House Committee on Administration, Gunnery Sergeant Jessie Jane Duff (Ret.) testified that she had never heard of the FWAB despite a twenty-year career as a marine.

Under this section, the Presidential designee is required to adopt procedures to promote and expand the use of the FWAB as a back-up measure. As part of this effort and required by other sections of MOVE, the Presidential designee shall take steps to make servicemembers aware of its existence and function, by promoting it through the Global Military Network and at critical points of service (example: such as the administrative check-in of soldiers at a new base or installation).

This section also expands the availability and utilization of the FWAB in two significant ways. First, it expands the mandatory availability of the FWAB as a failsafe ballot from use only in general elections, under the original UOCAVA statute, to also include special, primary, and runoff elections for Federal office. This is an important expansion of its use, because special, primary and runoff elections generally have shorter time periods between the time when ballots are made available to voters and Election Day.

Second, this section directs the Presidential designee to expand and promote the use of the FWAB as a back-up ballot. As part of this effort, the law directs the Presidential designee to use technology to develop a system under which a military or overseas voter can enter his or her address or other appropriate information, and the system will generate a list of all candidates for Federal office in the voter's jurisdiction. The voter will now have the information needed to fill out the FWAB and submit it to his or her election official. Such technology has already been developed through a partnership between the Pew Center on the States and the Overseas Vote Foundation, as noted in Pew's No Time to Vote: Challenges Facing America's Overseas Military Voters report submitted for the record for the Rules Committee's May 2009 hearing.

Section 582. Prohibiting refusal to accept voter registration and absentee ballot applications, marked absentee ballots, and Federal write-in absentee ballots for failure to meet certain requirements.

This section amends UOCAVA by prohibiting States from rejecting registration applications, ballot request applications and ballots for reasons unrelated to voter eligibility. The section is a response to evidence gathered by the Rules Committee highlighting the unfortunate practice, in certain jurisdictions, of rejecting absentee ballots and other election materials for immaterial reasons. In his testimony at the May 2009 Rules Committee hearing, Robert Carey of the National Defense Committee recommended eliminating notarization requirements for UOCAVA voters. That recommendation was echoed by representatives of the Pew Center on the States and the Overseas Vote Foundation. While the original draft of MOVE in S. 1415 also eliminated witness requirements in UOCAVA ballots, that provision was removed through committee negotiations. Any witness requirements that may be imposed by States should allow flexibility to ensure a voter can easily complete an absentee ballot. Any complex witness requirements make it more difficult for military and overseas voters to complete and cast an absentee ballot.

The first provision of this section prohibits States from rejecting otherwise valid voter

registration applications, absentee ballot applications (including the official post card form prescribed under UOCAVA), and marked absentee ballots submitted by military and overseas voters solely on the basis of notarization requirements, restrictions on paper type, and restrictions on envelope type. In some cases, the need to photocopy a ballot may result in a completed absentee ballot on different paper. No jurisdiction should reject a properly completed form simply because of the paper used.

The second provision contains similar prohibitions on rejecting the FWAB. It prohibits States from rejecting marked FWAB ballots solely because of notarization requirements, restrictions on paper type, and restrictions on envelope type.

Section 583. Federal Voting Assistance Program (''FVAP'').

This section amends UOCAVA to improve the Federal Voting Assistance Program for military voters. These provisions increase the availability of materials containing information on absentee voting procedures for military voters, as well as expand the overall awareness of such procedures.

The section directs the Presidential designee to take two major steps to meet this end—first, to create an online portal of information where our military can access information about registration and balloting procedures in their respective States; and second, to establish a program using the Global Military Network, an email network that reaches out to virtually every member of our military, to notify servicemembers 90, 60, and 30 days prior to each election for Federal office of voter registration information and resources, the availability of the Federal postcard application, and the availability of the FWAB as a fail-safe ballot.

It should be noted that the sponsors of the MOVE Act acknowledged that the Department of Defense already had a number of regulations in place to try to assist servicemembers in exercising their right to vote. Therefore, a provision was included to clarify that the provisions of MOVE were not meant to eliminate any other duties or obligations promulgated by the DOD that are not inconsistent or contradictory with the MOVE Act.

The section mandates that not later than 180 days after passage of the MOVE Act, the Secretary of each military department of the Armed Forces must designate offices on military installations under their jurisdiction to provide comprehensive voter registration services for troops and their families. The office will serve as a clearinghouse for providing servicemembers the opportunity to receive information on the following: voter registration and absentee ballot procedures, information and assistance with registering to vote in their States, information and assistance with updating the individual's voter registration information, including instructions on how to use and submit the Federal postcard application as a change of address form, and information and assistance with requesting an absentee ballot from the voter's local election official.

The section gives priority to individuals transitioning through critical points in their service, such as individuals who are undergoing a permanent change of duty station, deploying overseas for at least six months, returning from an overseas deployment of at least six months, or who otherwise request assistance related to voter registration. These resources are required by this section to be provided at least during the administrative processing associated with these points in service. By detailing exactly which points in time servicemembers are to receive such information, this section ensures that these voter resources can be most easily and efficiently provided to our troops. As a result, their ability to participate in Federal elections will be dramatically increased.

The Secretary of each military department (or the Presidential designee) is required to take steps to make the availability of these resources known to military voters through outreach efforts that include the availability of the designated voter registration offices and the time, location, and manner in which military voters may access such assistance. The Presidential designee and Secretaries of military departments are free to undertake a variety of methods to satisfy this provision, including the requirements in other sections of MOVE to inform servicemembers of the ballot collection and expedited delivery procedures.

Finally, this section allows the Secretary of Defense to authorize the Secretaries of the military departments of the Armed Forces to designate offices on military installations as voter registration agencies under §7(a)(2) of the National Voter Registration Act of 1993 (NVRA).

Under the provisions of the MOVE Act as passed by the Senate, the offices designated to provide voter registration assistance were required to be uniformly deemed voter registration agencies under the NVRA. In the conference committee for the NDAA, this requirement was changed from mandatory NVRA designation to giving the Secretaries the option of designating the voter registration offices as NVRA agencies.

There are good reasons for designating these voting assistance offices as voter registration agencies under the NVRA. Designation provides a minimum, uniform standard by which these offices must provide voter registration assistance and ensures such assistance is effective. First, pursuant to §7(a)(4)(A) of the National Voter Registration Act, such offices must provide mail voter registration forms, assistance in completing voter registration application forms, and acceptance of such forms for transmittal to State officials. The Federal postcard application can be used for this purpose because it is an acceptable voter registration form under the NVRA. Second, under §7(d), accepted registration forms have to be transmitted to State officials within 10 days of acceptance, or if accepted, within 5 days before the last day for registration to vote in an election, not later than 5 days after the date of acceptance. Furthermore, any individuals providing registration assistance in such an office are prohibited from doing the following: seeking to influence an applicant's political preference or party allegiance; displaying any political preference or party allegiance; making any statement to the applicant that would discourage registration; or making any statements with the purpose or effect of leading the applicant to believe that a decision to register has any bearing on other services provided at that office. The NVRA sets a uniform standard by which these offices must provide voter registration by ensuring an expansive provision of voter registration assistance and protecting against inadequate assistance and deficiencies in registration services. Without the opportunity or ability to register in an effective way, our military cannot vote.

While some have expressed concern with requiring DOD to run an NVRA voter registration agency, this is not a new role for the Department of Defense. The Department is already responsible, and has been for well over a decade, for administering the NVRA at designated offices. More than 6,000 military recruitment offices are currently required to provide information, registration assistance, and opportunities to register to vote in conformance with the NVRA. Further, these offices would only be required to provide the necessary voting assistance to individuals who are seeking other appropriate services at the military recruitment offices and not to any person who may happen to walk in and request it.

Nor are these offices required to operate as stand-alone voter registration agencies. Similar to other State government agencies operating NVRA-designated voter registration agencies, such as State social service offices, Departments of Motor Vehicles, and the like, DOD can provide voter registration services in offices that have a different primary function such as pay, personnel, and identification offices.

Following the passage of the MOVE Act, it is notable that Chairman Schumer and Senator Cornyn sent a letter on December 4, 2009 to Secretary Gates requesting that he make the determination, which he authorized to do under the NVRA, that the Department of Defense would be designated as a ''voter registration agency'' under the Act. In a letter back to Senators Schumer and Cornyn, dated December 16, 2009, the Deputy Secretary of Defense William J. Lynn, III, agreed to ''designate all military installation voting assistance offices as NVRA agencies.''

Finally, the Secretary of Defense is required to prescribe regulations relating to the administration of this section, which must be prescribed and implemented by the November 2010 Federal elections.

Section 584. Development of standards for reporting and storing certain data.

This section amends the UOCAVA statute to direct the Presidential designee to work with the Election Assistance Commission and the chief State election official of each State to develop standards for reporting data on the number of absentee ballots transmitted to and received from overseas voters, as well as other data the Presidential designee determines to be appropriate. States are required to report this data as the Presidential designee, in accordance with the standards developed by the Presidential designee under this section. The Presidential designee is directed to store such data, and should make that data publically available as appropriate under the law.

Section 585. Repeal of provisions relating to use of single application for all subsequent elections.

This section repeals §104(a)—§104(d) of the UOCAVA statute. These provisions required States, once they processed an official post card form received by military and overseas voters, to send an absentee ballot to that voter for each Federal election held in the State through the next two regularly scheduled general elections for Federal office, provided the voter indicated he/she wished the State to do so. It has been reported by State and local officials that this section of UOCAVA has led to inefficiency as blank absentee ballots are sent to voters who have moved or are no longer registered in the same location where they originally registered. Because some military and overseas voters in particular tend to be highly mobile, it is reported that this provision was difficult to implement effectively. The Committee responded by eliminating this federal mandate. States, however, are free to continue absentee programs that they find effective and convenient for voters, whether they be domestic or overseas voters.

Section 586. Reporting requirements.

This section amends UOCAVA to include additional requirements for reporting information to the Congressional committees of jurisdiction, including the Senate Committee on Appropriations, the Senate Committee on Armed Services, and the Senate

Committee on Rules and Administration, and the House Committee on Appropriations, the House Committee on Armed Services, and the House Administration Committees.

The first provision is a requirement for the Presidential designee to submit a report to these committees not later than 180 days after the enactment of the MOVE Act. The report is to include (a) the status of the implementation of the procedures on collection and delivery of absentee ballots from overseas military personnel, including specific steps taken in preparation for the November 2010 general election; and (b) an assessment of the Voting Assistance Officer (VAO) Program of the Department of Defense, including an evaluation of effectiveness, an inventory and full explanation of any programmatic failures, and a description of any new programs to replace or supplement existing efforts.

The Voting Assistance Officer (VAO) program is administered by the Department of Defense to provide military personnel with person-to-person guidance in understanding absentee voting procedures and helping overseas military personnel with the absentee voting process. However, the Rules Committee gathered evidence during the drafting of this legislation indicating the need for improvements in the VAO program. Tom Tarantino, Legislative Associate with Iraq and Afghanistan Veterans of America, submitted written testimony that he had been poorly trained when he served as a VAO. A report from the Department of Defense Inspector General revealed that in 2004, voting assistance officers made contact with only 40%–50% of military voters. Also, it was made known to the Rules Committee that serving as a VAO is often seen as a low-level military assignment, so it is not given much priority in practice. The reporting requirements established under this section will provide the new FVAP chief with the time to assess existing programs and suggest improvements, all with the goal of providing more overseas and military voters with the information and support necessary for them to exercise their right to vote.

The second reporting requirement is an annual report to Congress, due no later than March 31 of each year. In this report, the Presidential designee must include the following: (a) an assessment of the effectiveness of the FVAP program, including an examination on the effectiveness of the new responsibilities established by the MOVE Act; (b) an assessment of voter registration and participation by overseas military voters; (c) an assessment of registration and participation by non-military overseas absentee voters; and (d) a description of cooperative efforts between State and Federal officials. The report should also include a description of the voter registration assistance provided by offices designated on military installations utilized by servicemembers and a description of the specific programs implemented by each military department of the Armed Forces to designate offices and provide assistance. Finally, the report should include the number of uniformed services members utilizing voter registration assistance at the designated offices.

When the annual report is issued in years following a general election for Federal office, it should include a description of the procedures utilized for collecting and delivering marked absentee ballots, noting how many such ballots were collected and delivered, how many were not delivered in time before the closing of polls on Election Day, and the reasons for non-delivery.

These reporting requirements are a direct consequence of the interest of Congress in initial compliance with the MOVE Act and with its routine implementation over time. These reports will provide a key indicator of how effective absentee voting procedures are for overseas Americans in case additional reform is needed in the future.

Section 587. Annual report on enforcement.

This section amends the UOCAVA statute to require the Attorney General to send a report to Congress no later than December 31 of each year regarding what actions the Department of Justice has taken to enforce UOCAVA and the MOVE Act amendments to UOCAVA.

Since UOCAVA's passage in 1987, the Justice Department has filed 35 compliance suits against the States. Congress should be updated on a regular basis on efforts made to comply with federal military and overseas voting statutes. These reports will provide the Rules Committee and other Congressional committees with a key tool for oversight, in anticipation of the Justice Department playing a key role in overseeing the implementation and enforcement of the MOVE Act.

Section 588. Requirements payments.

This section amends the Help America Vote Act (HAVA) of 2002 to establish a new funding authorization, in addition to the funding authorizations already in place under HAVA, intended to be used only to meet the new requirements under UOCAVA imposed as a result of the provisions of and amendments made by MOVE. The language of the MOVE Act indicates that separate from a HAVA requirements payment; Congress has authorized, and can specifically appropriate funds for requirements payments ''appropriated pursuant to the authorization under section 257(a)(4) only to meet the requirements under the Uniformed and Overseas Citizens Absentee Voting Act imposed as a result of the provisions of and amendments made by the Military and Overseas Voter Empowerment Act.'' The appropriation would specifically reference a MOVE requirements payment. That MOVE requirements payment can be used only to meet the requirements of the MOVE Act. Nothing in this section impacts the ability of States to receive and spend funds on the traditional HAVA requirements payment program.

States must describe in their State plan how they will comply with the provisions and requirements of and amendments made by MOVE. Under amendments made in conference committee, chief State election officials may access MOVE requirements payments without providing the 5% match upfront. This section was amended in contemplation of providing funding for those States whose legislatures do not meet on an annual basis.

Further, States may choose to use the original funding authorizations under HAVA, those adopted as part of the original HAVA statute, to fund MOVE related compliance efforts so long as the State meets all of its other obligations under HAVA. The provisions of the MOVE Act can certainly be considered an activity ''to improve the administration of elections for Federal office'' under the HAVA requirements payments language.

Section 589. Technology pilot program.

This section gives the Presidential designee the authority to establish one or more pilot programs under which new election technologies can be tested for the benefit of military and overseas voters under the UOCAVA statute. The conduct of the program will be at the discretion of the Presidential designee and shall not conflict with any existing laws, regulations, or procedures.

Mindful of security concerns, the Rules Committee included several items for the Presidential designee to consider in crafting this pilot program. These include transmitting electronic information across military networks, cryptographic voting systems, the transmission of ballot representations and scanned pictures of ballots in a secure manner, the utilization of voting stations at military bases, and document delivery and upload systems. There may be many positive developments made by DOD pilot programs that can assist in expedited voting procedures for military and overseas voters. Security and privacy, of course, are essential components to any pilot program.

Under this section, the Presidential designee is required to submit to Congress reports on the progress of any such pilot programs, including recommendations for additional programs and any legislative or administrative action deemed appropriate.

This section directs the Election Assistance Commission (EAC) and the National Institute of Standards and Technology (NIST) at the Department of Commerce to work with the Presidential designee in the creation and support of such pilot programs. The bill requires the EAC and NIST to provide the Presidential designee with ''best practices or standards'' regarding electronic absentee voting guidelines. In particular, the MOVE Act directs the EAC and the NIST to work to develop best practices which conform with the electronic absentee voting guidelines established under the first sentence of section 1604(a)(2) of the National Defense Authorization Act for Fiscal Year 2002 (P.L. 107–107), as amended by §507 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (P.L. 108–375). The Committee staff contemplates that NIST will be helpful in addressing the election integrity and security concerns involved in developing electronic voting systems, as illustrated by NIST report entitled ''Threat Analysis on UOCAVA Voting Systems'' of December 2008 (NISTIR 7551).

This section also directs that, if the EAC has not established electronic absentee voting guidelines by not later than 180 days after enactment of the MOVE Act, then the EAC is to submit to Congress a report detailing why it has not done so, a timeline for the establishment of such guidelines, and a detailed accounting of its actions in developing such guidelines. This should provide to Congress and the public a roadmap on progress made, as well as the next steps the EAC plans to take.

RECOGNIZING THE ARKANSAS AIR NATIONAL GUARD

Mrs. LINCOLN. Mr. President, today I pay tribute to our Arkansas Air National Guard and their efforts to keep our Nation safe. In particular, I recognize the members of the 188th Fighter Wing, who are returning home throughout May after a 2 month deployment overseas.

The airmen spent 2 months at Kandahar Airfield in southern Afghanistan, flying 12 to 16 flights a day. Their day-and-night operations supported the ground troops who were fighting enemy insurgents. The work in Afghanistan was the unit's first combat deployment using A–10s. The unit flew F–16s until April 2007, including during their 4 month deployment in 2005 to Balad Air Base in Iraq.

Along with all Arkansans, I honor these servicemen and women for their bravery, and I am grateful for their service and sacrifice.

More than 11,000 Arkansans on active duty and more than 10,000 Arkansas reservists have served in Iraq or Afghanistan since September 11, 2001. It is the responsibility of our Nation to provide the tools necessary to care for our country's returning servicemembers and honor the commitment our Nation made when we sent them into harm's way. Our grateful Nation will not forget them when their military service is complete. It is the least we can do for those whom we owe so much.

REMEMBERING SENATOR CRAIG THOMAS

Mr. BARRASSO. Mr. President, I rise today to remember the life of Senator Craig Thomas.

Senator Thomas passed away on June 4, 2007. On that day, the people of Wyoming lost a native son. His presence back home is still missed.

One week from tomorrow will be the third anniversary of Craig's death. A column recognizing Craig's life and the Craig and Susan Thomas Foundation will be circulated across Wyoming next week. It reminds us of Craig's toughness, his love for Wyoming, and his commitment to challenging young people to succeed.

It is an appropriate tribute to Senator Thomas. I ask unanimous consent that the column be printed in the RECORD.

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

CRAIG THOMAS—A LIFE'S WORK GOES ON

(By Gale Geringer)

It's hard to believe that June 4th marks the third anniversary of Senator Craig Thomas' death in 2007.

Craig's wisdom and dedication to Wyoming people is dearly missed.

The passion he had for making Wyoming an even better place lives on strong when we need it most. In these economic times, when some young people have an especially tough time with financial or family issues, Craig Thomas' dedication to our future is an example we need to remember.

Craig was compassionate but it came with toughness. He respected young people and so expected a lot of them. He encouraged our youth to succeed and he approached that from the standpoint of a Captain in the United States Marine Corps. He taught personal responsibility and self reliance. He believed in being on time and ready to learn or work.

Craig motivated thousands of young people, urging them to be the best they can be, whatever their circumstances. He didn't come from money and didn't place a lot of value on pedigrees. He believed each individual had it within him/herself to rise above hardships and become productive, contributing members of society but he also recognized that everyone learns at a different level.

So for kids who might have fallen through the cracks, or were in the middle or bottom of their class, what a welcome inspiration they could find in Craig Thomas.

The Craig and Susan Thomas Foundation is born directly from that ethic and from the life-long experience and caring counsel of his wife, Susan.

The Foundation, now in its third year, continues to fulfill a promise and helps young people try for that second, third, even fourth chance at education and life fulfillment.

With scholarships to Wyoming's community colleges, the University, vocational and technical schools or online education, the Craig and Susan Foundation is changing lives. The Foundation believes that it doesn't matter where students are from, what their grade point average was, or whether they had excelled in something before. It matters that today they want to try and know that someone cares.

In addition to its other programs, the Foundation also gives annual leadership awards to adults who work to support at-risk youth in Wyoming, mentoring, educating or counseling children to achieve their goals.

One scholarship recipient, who is finishing his second year in college, tells this story, ''My early years were spent in various stages of poverty, abuse and neglect. I spent my teen years in foster/legal guardian care situations. I am and will remain drug free. I choose my circle of friends wisely. Now I'm majoring in Business Management at LCCC where I am getting good grades. It is very expensive and I need help. I ask for your assistance in helping me to make the very best of my life. College expenses are the greatest obstacle between me, my education and my success as a self-reliant, valuable member of my community.''

To date, 53 scholarships have already been awarded, including five to students who are older and have been able to improve their job prospects because they've obtained degrees or certificates.

The idea is simple. Our children deserve an opportunity to build happy and successful lives for themselves regardless of power or place. And when and if they fail, we have a responsibility to show them another way and offer them another chance.

Craig Thomas never thought he would grow up to be a United States Senator. He was a humble kid from outside of Cody who liked people and was willing to work hard at whatever he did. He would have also told you that there were special people in his life that pushed, prodded and, at times, literally willed him to succeed.

Not all of the students who are awarded a scholarship from the Craig and Susan Thomas Foundation and receive mentoring from Susan Thomas will become elected leaders some day. But one thing is sure, they WILL build Wyoming's workforce and they are inspiring assets to a better state—because they pulled themselves up by their bootstraps . . . with a little help.

NATIONAL FOSTER CARE MONTH

Mrs. LINCOLN. Mr. President, I rise today in recognition of National Foster Care Month, a time to recognize and shine a light on the needs of our foster children in Arkansas and across the U.S. and to highlight the countless men, women, and families who work tirelessly on their behalf.

Arkansas has more than 3,500 children in foster care. It is imperative that we ensure their safety and well-being and work to find them a permanent family to provide the love and support they need and desire. That is why I have introduced my Child Welfare Workforce Study Act, which will help identify the barriers that prevent children and families from accessing the essential services they need. It will also better ensure that necessary steps are taken to recruit and retain a quality and experienced workforce that can effectively address the needs and risks of our Nation's most vulnerable children and the families that provide them care.

With thousands of children in Arkansas seeking nothing but a safe and stable family to provide them comfort and security, we have a responsibility to ensure that families are adequately prepared to provide them with the care and supervision they deserve. These families should be appropriately supported and equipped with the resources they need.

Our current system is burdened by the ongoing challenges of recruiting and retaining enough families to care for and welcome these children into their homes, and experienced caseworkers to effectively manage their cases. We have children slipping through the cracks, and that is simply unacceptable. We need to create an environment that best provides for the well-being of these children and that most effectively helps them find a loving and permanent home.

I have also introduced the Resource Family Recruitment and Retention Act, which establishes much-needed standards of consistency in agency and state policies for foster and adoptive care. It also calls on agencies to follow best practices proven to increase and retain the number of foster, adoptive and kinship parents. These practices include efforts to allow foster parents to actively participate and have input in the case-planning and decision-making process regarding the child; to receive complete and timely responses from the agency; and to receive support services and appropriate training that will enhance the skills and ability of resource parents to meet their children's needs. Finally, the bill establishes a grant program to better allow states to develop innovative methods of education and support for families.

As lawmakers, it is our role to honor the critical role that foster families play in the lives of foster youth and provide them with the services and the support they need. Foster children seek nothing more than a safe, loving and permanent home, and resource families often help address this need. By strengthening efforts to recruit and retain these families, we also enhance our best recruitment tool, and retain prospective adoptive resources.

As members of this body, we have an obligation to do right by those whom we represent each and every day. We also have a moral obligation to do everything we can on behalf of the most vulnerable in our society. For the over 500,000 children in foster care and the many thousands of families who have provided them with the love and support they desperately need, it is the least we can do.

EARMARKS

Mr. ALEXANDER. Mr. President, with all of the recent talk of earmarks,

I want to share an op-ed that I wrote for the Nashville Tennessean and appeared in that paper on May 19 about the importance of asking Congress to fund Tennessee projects. Following is the text of that article:

In 2007, the Corps of Engineers told me that two big flood control dams on the Cumberland River system were near failure. I asked for and Congress approved $120 million to begin repairing Center Hill and Wolf Creek Dams.

During the recent flood, these repairs kept water levels higher behind these dams, which in turn kept millions of gallons out of the Cumberland River. According to the Corps, if Wolf Creek Dam had failed, flooding in Nashville would have been 4 feet higher. My $120 million appropriation request was called an ''earmark.''

Here is another ''earmark.'' In 2003, 40 Clarksville community leaders visited me in Washington. They and the commander of the 101st Airborne, GEN David Petraeus, wanted new housing for soldiers returning from Iraq. This was their top priority, but the money was not in President George W. Bush's budget. Over 3 years, I asked for $196 million. Congress approved. By 2007, when the most-deployed troops in America came home, new housing was ready.

Some say abolishing such earmarks will help solve Washington's out-of-control spending. I say this is a hoax, for two reasons:

1. Abolishing earmarks doesn't reduce the Federal debt one penny. If I ask for a Tennessee project and Congress approves, other spending in the budget is reduced by an equal amount. This debate over earmarks is a sideshow. The main show is the Democratic budget that would double the Federal debt in 5 years and triple it in 10. The way to control Federal spending is, first, to limit growth of discretionary spending to 2 percent a year—40 percent of the budget—and, second, to slow down automatic entitlement spending—most of the rest of the budget. Earmarks total 1 percent of all spending—and, again, earmarks add zero to total spending.

2. Under article I of the U.S. Constitution, only Congress—not the President—appropriates funds. When Tennesseans come to see me about making Center Hill and Wolf Creek Dams safe or improving housing at Fort Campbell, my job is not to give them President Obama's telephone number.

Some appropriations are vital.

Then, you might ask, why all the fuss? Because some Members of Congress have abused earmarks. Some ask for silly ones. Some ask for too many. Two were convicted of taking campaign contributions in exchange for recommending projects. Perhaps a senator is more likely to vote for a bill that includes his or her appropriations amendment—but this can be said about any amendment to any bill.

My view is that if you have a couple of bad acts on the Grand Ole Opry, you don't cancel the Opry, you cancel the acts. That is why some Congressmen lose elections and some are in jail. That is why Congress ended middle-of-the-night earmarks and even required its Members to attest that appropriations do not benefit them or their families. That is why 2 years ago I voted for a 1-year moratorium on earmarks to encourage more reforms. Now I am cosponsoring Senator Tom Coburn's legislation to put all earmarks on one Web site to make them easier to find. Tennessee projects already are on my Web site.

Some specific appropriations are vital to our State, and to our country. The Human Genome Project was an earmark. The Manhattan Project that won World War II was an earmark.

It might be easier for me to say, ''OK, no more earmarks.'' Then I wouldn't have to explain them in articles like this. But how would I explain to Clarksvillians why soldiers returning from Iraq didn't get new housing or to Nashvillians why the water was 4 feet higher during the flood? Make no mistake: If I had not asked, there would not have been enough Federal money for that housing or to repair those dams.

Just last week, the President asked for specific appropriations for the gulf coast oil-spill, but not for flooding in 52 Tennessee counties. I did ask, and the Senate Committee approved. I did not want Washington to overlook the worst natural disaster since the president took office just because Tennesseans are cleaning up and helping one another instead of complaining and looting. Sometimes the job I was elected to do includes asking Congress to fund worthwhile Tennessee projects.

TRIBUTE TO MATTHEW BERGER

Ms. SNOWE. Mr. President, I rise today to recognize the outstanding contributions of one of my staff members, Matthew Berger, during his nearly 5 years of service to the Senate Committee on Small Business and Entrepreneurship and to the people of this country. Matthew has decided to begin a new professional chapter in his life, and when he leaves the Senate this month, there will be a noticeable void in my staff.

Matthew began his work with the committee in September 2005, starting as a special assistant to the staff director and quickly transitioning to become a professional staff member the next year. In his role as professional staff, Matthew became my principal adviser on economic matters, and he helped me develop legislation and policy ideas on a host of issues, from the annual Federal budget process to Social Security and pensions. For the last 2 years, Matthew has served as economist and press secretary for my committee staff, a far-reaching role that afforded him the ability to display his many talents, including his strong writing style and vast knowledge of all matters pertaining to the Nation's financial system.

Over the past several years, Matthew has played a critical role in assisting me to develop and introduce legislation on a variety of issues. His research efforts were crucial in my developing the Home Office Tax Deduction Simplification Act in both the 110th and 111th Congresses, as well as numerous amendments to a variety of bills, including the recent financial regulatory reform legislation. Matthew was my lead staff member for the American Recovery and Reinvestment Act as well as for the yearly budget resolution, and as such, he is certainly well versed in the Senate amendment process. Matthew's efforts to promote my legislative priorities frequently helped me attract a broad coalition of cosponsors. Matthew has also helped me draft detailed editorials for several national and local Maine publications.

Prior to joining my committee staff, Matthew spent 5½ years working on tax issues for Deloitte Tax LLP and developing a solid understanding and knowledge of our Nation's tax policy, making him a tremendous asset as soon as he began his work on the Hill. As a national tax manager, Matthew advised numerous clients on the impacts of tax law, helping them anticipate and adjust to any changes in the law. During his time at Deloitte, Matthew authored several articles and portions of books, and contributed frequently to Tax News & Views, one of the company's publications for its clientele. Additionally, he was instrumental in the design, launch, and management of Tax News & Views: Health Care Edition, which highlighted recent judicial, regulatory, and tax developments regarding health care. Matthew also served as a research assistant at the Hoover Institution during his time at Stanford University, where he earned his degree in economics.

Matthew's next endeavor takes him to the National Multi Housing Council, where he will be the vice president of tax. I am confident that they will benefit greatly from Matthew's unparalleled knowledge of the Tax Code, as well as his admirable work ethic and tremendous dedication to what he does. They will also be getting a true team player—someone who establishes and cultivates strong relationships with his colleagues. And despite the whirlwind Senate schedule, Matthew frequently found the time on Monday evenings to platoon at first base for my office's softball team, ''Snowe Business.''

Over the past 5 years, I have been consistently impressed by Matthew's passion for public service. I am grateful for his incredible willingness to work long hours to help me prepare for hearings and meetings, and I am indebted to him for his involvement in helping shape some of the most significant domestic legislation of our lifetimes. From the economic stimulus legislation we passed last February to the financial regulatory reform bill we completed just last week, Matthew has been a key asset in a number of considerable policy matters during his time on the Hill. I will miss his tremendous contributions to my office and his remarkable analytical skills and institutional knowledge. While I am sad to see him leave, I wish both he and his beautiful wife LaNitra the best in their incredibly bright futures.

TRIBUTE TO WALTON GRESHAM, III

Mr. COCHRAN. Mr. President, I am pleased to congratulate my friend, Mr. Walton Gresham, III, from Indianola, MS, who has been awarded the National Propane Gas Association's Bill Hill Award. This is a significant achievement that deserves recognition from the U.S. Senate. This award was established in honor of individuals who have made outstanding and lasting

contributions to the LP-Gas industry in the area of government relations. The award honors the memory of the late William C. Hill, who devoted distinguished service to the propane industry and was responsible for easing many of the burdens of price and allocation regulations on both large and small propane marketers throughout the 1970s.

I have known Walton Gresham and his family for many years and can attest to the honor and diligence with which they conduct their business. Mr. Gresham possesses a dignity and gentlemanly nature that has allowed him to be a fine representative for his company and his industry throughout the years. Somehow, he always seems to have the time, and the ability, to make important contributions. I congratulate him on this significant achievement.

Mr. WICKER. Would the Senator from Mississippi yield?

Mr. COCHRAN. I would be happy to yield to my distinguished colleague.

Mr. WICKER. Mr. President, I would like to echo the sentiments of Senator COCHRAN relative to Walton Gresham being awarded NPGA's Bill Hill Award. Mr. Gresham has been exceptional in helping legislators on the Federal, State, and local levels understand the difficult issues confronted by the LP-Gas business. He has taken the lead in areas critical to the industry, and has unselfishly dedicated both time and resources for the betterment of the Mississippi and National Propane Gas Associations.

I am proud to know Mr. Walton Gresham. I am proud to have Gresham Petroleum headquartered in Indianola, MS. And I am proud to know that Mr. Gresham has been awarded NPGA's Bill Hill Award, the propane gas industry's highest award for governmental relations activities.

PAGE RIVALRY

Mr. WARNER. Mr. President, It has come to my attention that the normal rivalry between the House and Senate pages has reached new levels. While not aware of all the facts, I know the Senate pages serve with skill and dedication. I also understand that the Senate pages were successful in the Frisbee challenge but there may be some debate on the matter. I wish all the pages much success and wish them all well.

ADDITIONAL STATEMENTS

REMEMBERING WHITNEY HARRIS

• Mr. DODD. Mr. President, I speak in memory of a great American, a champion of human rights, and a personal hero of mine, Whitney Harris.

Whitney Harris, who passed away last month at the age of 98, was the last surviving Nuremberg prosecutor. He served alongside my father during the trials of Nazi war criminals, and was the lead prosecutor in the very first of those trials, which resulted in the conviction of the man who led the Nazi Security Police, including the dreaded Gestapo. And he was part of the team that brought to justice the former commander of the concentration camp at Auschwitz. Whitney's work earned him the Legion of Merit.

I, of course, got to know Whitney through my father. Men like them who took part in that unique episode in world history carried with them both the honor that comes with such good work and the burden that comes with confronting evil at such close range. My father's resulting passion to continue doing good works was so strong that it inspired not just his public service, but also my own. And while so many have spent the decades since World War II attempting to come to terms with what they saw, Whitney Harris has done incredible work helping all of us to understand what it all meant.

He believed that the United Nations should create a permanent international war crimes tribunal because he knew that the Holocaust was merely the most egregious manifestation of the evil that man is capable of inflicting.

Whitney wrote a poem once that he read at a Holocaust Observance Day ceremony. It read, in part: ''A thousand years have passed. What was the number killed at Auschwitz? It matters not. Twas but a trifle in the history of massacre of man by man.''

The work he did at Nuremberg is enough to cement Whitney Harris's place among the great legal giants and the great defenders of humanity of his generation. But his work since his speaking, his writing, his teaching represent an invaluable contribution to future generations.

To his beloved wife Anna and his wonderful family, I join Whitney's many admirers in sharing your sense of loss at his passing and your pride in his many accomplishments.

He lived a life in service to the world. And the world is better for it.•

100TH ANNIVERSARY OF THE FOUNDING OF NORFORK

• Mrs. LINCOLN. Mr. President, today I recognize the residents of Norfork in my home State of Arkansas as they commemorate the 100th anniversary of their town's founding.

In conjunction with the annual ''Pioneer Days'' festival, Norfork celebrated its historic milestone with events throughout the community, including a Dutch oven cook-off, music, a Civil War re-enactment, a 5K walk/run, food, games, and a photo exhibit showing local scenes, pioneers and historic sites. These events symbolize the history, heritage, and community spirit that define Norfork and its citizens.

With a population of 484, Norfork claims four sites on the National Register of Historic Places. Probably the best known is the 1829 Jacob Wolf House, a territorial courthouse and the oldest remaining public structure in Arkansas. I was proud to help authorize a study to determine the feasibility of naming the Jacob Wolf House a park within the National Park System.

Also on the National Register are the Davis House, a 1928 pyramid-roofed cottage; the Horace Mann school complex, including the main school building constructed by the Works Progress Administration in 1936; and the North Fork Bridge, a steel deck truss span built 70 feet above the river in 1937.

I salute the residents of Norfork for their efforts to maintain the beauty and history of their community. I join all Arkansans to express my pride in this treasure of our State.•

RECOGNIZING HABITAT FOR HUMANITY OF PULASKI

• Mrs. LINCOLN. Mr. President, today I pay tribute to the volunteers, staff, and board members of Habitat for Humanity of Pulaski County. These men and women work tirelessly to provide safe, secure homes for families who would not otherwise be able to afford them.

Under the leadership of CEO Bill Plunkett, Habitat for Humanity of Pulaski County celebrates two milestones this year: its 20th anniversary and construction of its 100th home. Habitat built its first home in Little Rock in 1990. More than 75 families in Pulaski County own homes built and financed with Habitat, and more homes are under construction.

I commend the efforts of Habitat for Humanity, which works to eliminate substandard housing while providing simple, decent housing to qualified low-income families. In addition to building homes, Habitat builds a spirit of community and cooperation among its volunteers, supporters and beneficiaries.

Habitat for Humanity of Pulaski County also partners with other community development organizations to rebuild neighborhoods. For example, Habitat and the Argenta Community Development Corporation are currently building and rehabilitating a home in the HOLT neighborhood in North Little Rock. As a result of their activity, the city of North Little Rock recently built a children's park in this neighborhood.

Along with all Arkansans, I congratulate the entire Habitat team for their efforts to help our central Arkansas families in need.•

TRIBUTE TO LINDOL ATKINS, JR.

• Mr. SANDERS. Mr. President, I honor Vermonter Lindol Atkins, Jr., a man who has dedicated his life to the struggle for workers' rights and economic justice. For more than 35 years, Lindol Atkins has provided spirited

and dedicated leadership in representing municipal employees in Burlington. As a former mayor of Burlington, I can attest firsthand that Mr. Atkins has distinguished himself as an indomitable leader of workers' rights efforts in the State of Vermont.

Lindol Atkins began his fight to improve the rights and protections of Burlington city employees back in 1968 when he joined AFSCME. Elected president of AFSCME Local 1343 in 1970, Lindol continued his mission to advance the rights of workers by skillfully handling all grievance and arbitration cases. As the lead negotiator for the union, he also led many successful contract campaigns that ultimately improved employees' wages and working conditions. In 2005, Mr. Atkins retired as president of the Burlington AFSCME local, but rather than slow down and enjoy his well-earned rest he continued his leadership role within the labor movement by being elected president of the Vermont State Labor Council, AFL–CIO.

A husband and father of 12, Lindol Atkins has the enviable ability to be able to do many things well—a wonderful and necessary quality in one with such a deep devotion to the labor movement as well as to his large, loving family. Indeed, it is the dedicated and remarkable people like Lindol Atkins who have kept America moving forward. His unparalleled commitment to civic values has been a major factor in earning Vermont its well-deserved reputation for social justice and principled community leadership. Lindol has received many awards for his work guiding Vermont's labor movement, with the capstone being the presentation of this year's AFL–CIO Presidential Lifetime Achievement Award.

The quality of life in Vermont, and in our Nation, is strengthened by individuals such as Lindol Atkins, Jr., whose quest to better working conditions for men and women in his community has brought a great sense of solidarity to not just the people of Vermont, but the entire Nation. I commend his loyalty and great contributions to the labor movement, to Vermont, and to the United States.●

RECOGNIZING SHAIN'S OF MAINE

● Ms. SNOWE. Mr. President, as the summer months are upon us, millions of Americans will indulge in the traditional summertime treat of ice cream. Almost nothing is as refreshing and enjoyable on a hot summer day as a cold scoop of ice cream, and a company in my home State of Maine is making it possible to enjoy this dessert year round. I rise today to honor Shain's of Maine, a family-owned and operated small business that has been serving this delicious frozen treat year-round to Mainers since 1979.

Shain's of Maine is based in Sanford and began as a small retail ice cream company three decades ago. Over the years, Shain's has continued to grow and now operates a restaurant and a thriving wholesale division. It has been reported that Shain's dishes out as much as 3,000 quarts of ice cream a day in winter and 10,000 quarts a day in summer! Shain's credits the hard work and loyalty of its employees with their ability to keep up with the tremendous demand for its product. Shain's employees speak fondly of the atmosphere and fun working environment at Shain's and also boast about some of the ''sweet'' perks working at this small business, which include: free ice cream, breaks whenever the employees want, and the occasional half-filled quart of ice cream to take home.

In order to attract new customers, Shain's markets its products by sending out samples to restaurants and other establishments that sell ice cream. Shain's has always taken pride in its superior quality and service, and attributes those same virtues with the company's longevity and success today. Shain's commitment to the customer and ability to respond to the needs of its loyal fans has allowed Shain's to grow tremendously throughout its existence. Indeed, Shain's currently delivers its 100 flavors of ice cream to 300 independent stores and 100 ice cream stands. Its Sanford location offers customers creative sundaes—including its famed Wipeout Sundae, including four ice cream flavors, four toppings, whipped cream, and cherries—as well as a variety of frappes, floats, sherbets, and frozen yogurts.

One particular ice cream concoction has become wildly popular among Mainers because of its connection to the local minor league baseball team. The Portland Sea Dogs, Maine's AA affiliate of the Boston Red Sox, offer one of Shain's delicious creations, the classic Sea Dog Biscuit, at their home games. The Sea Dog Biscuit is Shain's take on the traditional ice cream sandwich, featuring vanilla ice cream and two giant chocolate chip cookies. It is this kind of creativity and clever marketing that allows Shain's to differentiate itself from other, larger ice cream companies.

This marvelous story of a successful small business is a reminder to us all that caring for customers and valuing your employees can result in long term success in any industry. As countless tourists travel to Vacationland this summer, I am certain that many will be searching for a cool treat to satisfy their sweet tooth, and Shain's of Maine will stand ready with scoops in hand! I congratulate Shain's of Maine for its ongoing dedication to providing delicious ice cream for Mainers and tourists alike, and I wish the company many more years of success to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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.)

REPORT ON THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

Consistent with section 108 of the National Security Act of 1947, as amended (50 U.S.C. 404a), I am transmitting the National Security Strategy of the United States.

BARACK OBAMA.

THE WHITE HOUSE, *May 27, 2010*.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

The President pro tempore (Mr. BYRD) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

H.R. 5139. An act to provide for the International Organizations Immunities Act to be extended to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo.

At 4:37 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 282. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

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–5929. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Emerald Ash Borer; Addition of Quarantined Areas in Kentucky, Michigan, Minnesota, New York, Pennsylvania, West Virginia, and Wisconsin'' (Docket No. APHIS–2009–0098) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5930. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to

law, the report of a rule entitled ''Black Stem Rust; Additions of Rust-Resistant Varieties'' (Docket No. APHIS–2010–0035) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5931. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Tomatoes From Souss—Massa—Draa, Morocco; Technical Amendment'' (Docket No. APHIS–2008–0017) received in the Office of the President of the Senate on May 20, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5932. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Coat Protein of Plum Pox Virus; Exemption from the Requirement of a Tolerance'' (FRL No. 8826–9) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5933. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prothioconazole; Pesticide Tolerances'' (FRL No. 8828–6) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5934. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Boscalid; Pesticide Tolerances'' (FRL No. 8826–4) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5935. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Novaluron; Pesticide Tolerances'' (FRL No. 8825–3) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5936. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Diquat Dibromide; Pesticide Tolerances'' (FRL No. 8827–7) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5937. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Department of the Navy and was assigned case number 09–01; to the Committee on Appropriations.

EC–5938. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting the report of (19) officers authorized to wear the insignia of the grade of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–5939. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Douglas E. Lute, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–5940. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Army tactical ground network program; to the Committee on Armed Services.

EC–5941. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Trade Agreements Thresholds'' (DFARS Case 2009–D040) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Armed Services.

EC–5942. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Letter Contract Definitization Schedule'' (DFARS Case 2007–D011) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Armed Services.

EC–5943. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contract Authority for Advanced Component Development or Prototype Units'' (DFARS Case 2009–D034) received in the Office of the President of the Senate on May 21, 2010; to the Committee on Armed Services.

EC–5944. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Ground and Flight Risk Clause'' (DFARS Case 2007–D009) received in the Office of the President of the Senate on May 21 2010; to the Committee on Armed Services.

EC–5945. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''New Designated Country—Taiwan'' (DFARS Case 2009–D010) received in the Office of the President of the Senate on May 21, 2010; to the Committee on Armed Services.

EC–5946. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Limitations on Procurements with Non-Defense Agencies'' (DFARS Case 2009–D027) received in the Office of the President of the Senate on May 21, 2010; to the Committee on Armed Services.

EC–5947. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the continuation of a national emergency declared in Executive Order 13222 with respect to the lapse of the Export Administration Act of 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–5948. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month report on the national emergency that was originally declared in Executive Order 13159 relative to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation; to the Committee on Banking, Housing, and Urban Affairs.

EC–5949. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, the six-month periodic report on the national emergency with respect to North Korea that was declared in Executive Order 13466 of June 26, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–5950. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Nonprocurement Debarment and Suspension'' (RIN3150–AI76) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Energy and Natural Resources.

EC–5951. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Withdrawal of Federal Antidegradation Policy for all Waters of the United States within the Commonwealth of Pennsylvania'' (FRL No. 9156–5) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Environment and Public Works.

EC–5952. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Significant New Use Rule on a Certain Chemical Substance'' (FRL No. 8819–3) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Environment and Public Works.

EC–5953. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; State of Colorado; Interstate Transport of Pollution Revisions for the 1997 8-hour Ozone NAAQS: 'Significant Contribution to Nonattainment' Requirement'' (FRL No. 9155–5) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Environment and Public Works.

EC–5954. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plan Revisions; State of North Dakota; Air Pollution Control Rules, and Interstate Transport of Pollution for the 1997 PM2.5 and 8-hour Ozone NAAQS: 'Significant Contribution to Nonattainment' and 'Interference with Prevention of Significant Deterioration' Requirements'' (FRL No. 9155–6) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Environment and Public Works.

EC–5955. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision'' (FRL No. 9146–4) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Environment and Public Works.

EC–5956. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans: Florida; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standards for the Jacksonville, Tampa Bay, and Southeast Florida Areas'' (FRL No. 9155–3) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Environment and Public Works.

EC–5957. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Transportation Conformity Regulations'' (FRL No. 9156–2) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Environment and Public Works.

EC–5958. A communication from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual reports that appeared in the March 2010 Treasury Bulletin; to the Committee on Finance.

EC–5959. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Use of Delegation Order (DO) 4–25 on Appeals Settlement Position (ASP) for the IRC §41 Research Credit—Intra-Group Receipts from Foreign Affiliates (IRM 4.46.5.6)'' (LMSB–4–0510–0182) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Finance.

EC–5960. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, including, technical data, and defense services to support the C–130 Air Crew Training Device Program for end use by the Royal Saudi Air Force in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–5961. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the proposed removal from the U.S. Munitions List of infrasound sensors that have both military and civil applications; to the Committee on Foreign Relations.

EC–5962. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2010–0076—2010–0079); to the Committee on Foreign Relations.

EC–5963. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report relative to the implementation of the Age Discrimination Act of 1975 for fiscal year 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–5964. A communication from the Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Part 4022) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5965. A communication from the Office Manager, Health Resources and Services Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Public Health Service Act, Rural Physician Training Grant Program, Definition of 'Underserved Rural Community' '' (RIN0906–AA86) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5966. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''National Archives and Records Administration Facility Locations and Hours'' (RIN3095–AB66) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5967. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditor's Review of Compliance with the Living Wage Act and First Source Act Requirements Pursuant to the Compliance Unit Establishment Act of 2008''; to the Committee on Homeland Security and Governmental Affairs.

EC–5968. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditor's Certification of Department of Mental Health's Fiscal Year 2008 Performance Accountability Report''; to the Committee on Homeland Security and Governmental Affairs.

EC–5969. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–401, ''Unemployment Compensation Reform Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5970. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–402, ''School Safe Passage Emergency Zone Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5971. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–404, ''Tenant Opportunity to Purchase Preservation Clarification Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5972. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–405, ''Stimulus Accountability Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5973. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–406, ''Corrections Information Council Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5974. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–408, ''Liquid PCP Possession Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5975. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–409, ''Uniform Principal and Income Technical Amendments Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5976. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–407, ''Residential Aid Discount Subsidy Stabilization Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5977. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–410, ''Closing of Public Streets Adjacent to Square 1048–S (S.O. 09–11792) Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5978. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–411, ''Keep D.C. Working Temporary Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5979. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–412, ''Predatory Pawnbroker Regulation and Community Notification Temporary Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5980. A communication from the Federal Co-Chair, Appalachian Regional Commission, transmitting, pursuant to law, the Semiannual Report of the Inspector General for the period from October 1, 2009, through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5981. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5982. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010 and the 42nd report on audit final action by management; to the Committee on Homeland Security and Governmental Affairs.

EC–5983. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5984. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5985. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the South Carolina Advisory Committee; to the Committee on the Judiciary.

EC–5986. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Fiscal Year 2008 Annual Report to Congress for the Office of Justice Programs' Bureau of Justice Assistance; to the Committee on the Judiciary.

EC–5987. A communication from a Co-Chair, Abraham Lincoln Bicentennial Commission, transmitting, pursuant to law, the Commission's Final Report; to the Committee on the Judiciary.

EC–5988. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Ohio Advisory Committee; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 553. A bill to require the Secretary of Homeland Security to develop a strategy to

prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes (Rept. No. 111–200).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 4506. A bill to authorize the appointment of additional bankruptcy judges, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Air Force nomination of Maj. Gen. Burton M. Field, to be Lieutenant General.

Air Force nomination of Maj. Gen. Frank J. Kisner, to be Lieutenant General.

Air Force nominations beginning with Colonel Jeffrey L. Harrigian and ending with Colonel Robert D. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on May 7, 2010.

Army nomination of Lt. Gen. David H. Huntoon, Jr., to be Lieutenant General.

Navy nomination of Rear Adm. Michael H. Miller, to be Vice Admiral.

Navy nominations beginning with Rear Adm. (lh) Joseph P. Aucoin and ending with Rear Adm. (lh) Nora W. Tyson, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2010.

Navy nomination of Vice Adm. William E. Gortney, to be Vice Admiral.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of Kshamata Skeete, to be Major.

Air Force nomination of Pascal Udekwu, to be Colonel.

Air Force nominations beginning with Mark R. Anderson and ending with Jonathan A. Sosnov, which nominations were received by the Senate and appeared in the Congressional Record on May 13, 2010.

Army nominations beginning with Alan C. Cranford and ending with William A. Ward, which nominations were received by the Senate and appeared in the Congressional Record on May 5, 2010.

Army nomination of Adam S. Colombo, to be Major.

Army nominations beginning with Christopher W. Soika and ending with Elizabeth Remedios, which nominations were received by the Senate and appeared in the Congressional Record on May 5, 2010.

Army nominations beginning with Fred M. Chesbro and ending with Derek J. Tolman, which nominations were received by the Senate and appeared in the Congressional Record on May 13, 2010.

Army nominations beginning with Monique C. Bierwirth and ending with David E. Wood, which nominations were received by the Senate and appeared in the Congressional Record on May 13, 2010.

Army nomination of Carolyn A. Waltz, to be Colonel.

Army nominations beginning with Denny S. Hewitt and ending with John D. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on May 13, 2010.

Army nomination of Adam H. Hamawy, to be Lieutenant Colonel.

Army nominations beginning with Stephen W. Austin and ending with Nathan L. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record on May 19, 2010.

Marine Corps nomination of David S. Phillips, to be Lieutenant Colonel.

Navy nomination of John J. Kemerer, to be Lieutenant Commander.

Navy nominations beginning with Robin E. Alfonso and ending with Chadrick O. Withrow, which nominations were received by the Senate and appeared in the Congressional Record on May 5, 2010.

Navy nomination of John M. Holmes, to be Lieutenant Commander.

Navy nomination of Leonard J. Long, to be Lieutenant Commander.

Navy nomination of Alexander Davila, to be Commander.

Navy nomination of Antonio L. Scinicariello, to be Lieutenant Commander.

Navy nomination of Christopher R. Swanson, to be Lieutenant Commander.

Navy nomination of Dominick E. Floyd, to be Lieutenant Commander.

Navy nomination of Joseph A. Nellis, to be Lieutenant Commander.

Navy nomination of Rachel J. Velasco-Lind, to be Commander.

Navy nomination of David S. Weldon, to be Lieutenant Commander.

Navy nominations beginning with James L. Brown and ending with Matthew B. Reed, which nominations were received by the Senate and appeared in the Congressional Record on May 19, 2010.

By Mr. BAUCUS for the Committee on Finance.

*Sherry Glied, of New York, to be an Assistant Secretary of Health and Human Services.

By Mr. LEAHY for the Committee on the Judiciary.

John A. Gibney, Jr., of Virginia, to be United States District Judge for the Eastern District of Virginia.

Gervin Kazumi Miyamoto, of Hawaii, to be United States Marshal for the District of Hawaii for the term of four years.

Scott Jerome Parker, of North Carolina, to be United States Marshal for the Eastern District of North Carolina for the term of four years.

Laura E. Duffy, of California, to be United States Attorney for the Southern District of California for a term of four years.

Darryl Keith McPherson, of Illinois, to be United States Marshal for the Northern District of Illinois for the term of four years.

Stephanie A. Finley, of Louisiana, to be United States Attorney for the Western District of Louisiana for the term of four years.

Daniel J. Becker, of Utah, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2010.

James R. Hannah, of Arkansas, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2010.

Gayle A. Nachtigal, of Oregon, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2012.

John B. Nalbandian, of Kentucky, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2010.

Marsha J. Rabiteau, of Connecticut, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2010.

Hernán D. Vera, of California, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2012.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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 Mrs. BOXER:

S. 3432. A bill to establish a temporary Working Capital Express loan guarantee program for small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. SANDERS:

S. 3433. A bill to prohibit the leasing of the Pacific, Atlantic, Eastern Gulf of Mexico, and Central Gulf of Mexico Regions of the outer Continental Shelf and to increase fuel economy standards; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. SNOWE, Mr. MERKLEY, Mr. BROWN of Massachusetts, Ms. STABENOW, Mr. SANDERS, Mr. DODD, Mrs. GILLIBRAND, Mr. CARPER, Mr. PRYOR, Mr. BEGICH, Ms. KLOBUCHAR, Ms. CANTWELL, and Mr. HARKIN):

S. 3434. A bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 3435. A bill to amend the Federal Meat Inspection Act to revise the definition of the term ''adulterated'' to include contamination with E. Coli; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. LINCOLN:

S. 3436. A bill to amend the Energy Policy and Conservation Act to establish a motor efficiency rebate program; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself, Ms. KLOBUCHAR, Mr. FRANKEN, and Mr. PRYOR):

S. 3437. A bill to amend the Child Abuse Prevention and Treatment Act to establish grant programs for the development and implementation of model undergraduate and graduate curricula on child abuse and neglect at institutions of higher education throughout the United States and to assist States in developing forensic interview training programs, to establish regional training centers and other resources for State and local child protection professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself, Mr. ENSIGN, Mr. HARKIN, Mr. TESTER, Mr. BENNET, and Ms. KLOBUCHAR):

S. 3438. A bill to promote clean energy infrastructure for rural communities; to the Committee on Finance.

By Mr. REID (for himself, Mr. ENSIGN, Mr. HARKIN, Mr. TESTER, Mr. BENNET, and Ms. KLOBUCHAR):

S. 3439. A bill to promote clean energy infrastructure for rural communities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRASSLEY:

S. 3440. A bill to amend the Internal Revenue Code of 1986 to extend the incentives for biodiesel and renewable diesel; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. GREGG):

S. 3441. A bill to provide high-quality public charter school options for students by enabling such public charter schools to expand and replicate; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN (for himself, Mr. ALEXANDER, and Mr. MERKLEY):

S. 3442. A bill to promote the deployment of plug-in electric drive vehicles, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3443. A bill to amend the Outer Continental Shelf Lands Act to eliminate the 30-day time limit for exploration plans; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself, Mr. CARDIN, and Ms. LANDRIEU):

S. 3444. A bill to require small business training for contracting officers; to the Committee on Small Business and Entrepreneurship.

By Mr. HATCH:

S. 3445. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for certain professional development and other expenses of elementary and secondary school teachers and for certain certification expenses of individuals becoming science, technology, engineering, or math teachers; to the Committee on Finance.

By Mr. UDALL of New Mexico:

S. 3446. A bill to amend the Child Nutrition Act of 1966 to advance the health and wellbeing of schoolchildren in the United States through technical assistance, training, and support for healthy school foods, local wellness policies, and nutrition promotion and education, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. AKAKA:

S. 3447. A bill to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. UDALL of New Mexico:

S. 3448. A bill to amend the Richard B. Russell National School Lunch Act to permit certain service institutions in all States to provide year-round services; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN:

S. 3449. A bill to authorize the Secretary of Agriculture to enter into an interagency agreement with the Corporation for National and Community Service to support a Nutrition Corps; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROCKEFELLER (for himself and Mr. BYRD):

S. 3450. A bill to require publicly traded coal companies to include certain safety records in their reports to the Commission, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 3451. A bill to authorize assistance to Israel for Iron Dome anti-missile defense system; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 3452. A bill to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CONRAD:

S. Res. 541. A resolution designating June 27, 2010, as ''National Post-Traumatic Stress Disorder Awareness Day''; to the Committee on the Judiciary.

By Mr. ALEXANDER (for himself, Mr. BYRD, Mr. CORKER, Mrs. BOXER, Mr. CRAPO, Mrs. FEINSTEIN, Mr. GREGG, Ms. LANDRIEU, Mr. BROWNBACK, and Mr. BAYH):

S. Res. 542. A resolution designating June 20, 2010, as ''American Eagle Day'', and celebrating the recovery and restoration of the bald eagle, the national symbol of the United States; considered and agreed to.

By Mr. MENENDEZ (for himself, Mr. LEAHY, and Mr. CARDIN):

S. Res. 543. A resolution expressing support for the designation of a National Prader-Willi Syndrome Awareness Month to raise awareness of and promote research on the disorder; considered and agreed to.

By Mr. BAUCUS (for himself, Mr. JOHANNS, Mrs. LINCOLN, Mrs. MURRAY, Mr. NELSON of Nebraska, Ms. KLOBUCHAR, Mr. BENNET, Mr. BINGAMAN, and Mr. ROBERTS):

S. Res. 544. A resolution supporting increased market access for exports of United States beef and beef products; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 545. A resolution to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs; considered and agreed to.

By Mr. CASEY (for himself and Mr. SPECTER):

S. Con. Res. 64. A concurrent resolution honoring the 28th Infantry Division for serving and protecting the United States; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 455

At the request of Mr. ROBERTS, the name of the Senator from Alabama (Mr. SESSIONS) 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. 504

At the request of Mr. ROBERTS, the names of the Senator from Indiana (Mr. BAYH), the Senator from Washington (Ms. CANTWELL), the Senator from Tennessee (Mr. CORKER), the Senator from South Carolina (Mr. DEMINT), the Senator from North Dakota (Mr. DORGAN), the Senator from Wisconsin (Mr. KOHL), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps.

S. 510

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 632

At the request of Mr. BAUCUS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 729

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 941

At the request of Mr. CRAPO, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 984

At the request of Mr. BOND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 1102

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1102, a bill to provide benefits to domestic partners of Federal employees.

S. 1153

At the request of Mr. SCHUMER, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1153, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for

employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

S. 1334

At the request of Mrs. GILLIBRAND, the names of the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 1334, a bill to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

S. 1360

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1589

At the request of Ms. CANTWELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1589, a bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel.

S. 1606

At the request of Mr. WHITEHOUSE, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1606, a bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes.

S. 2862

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2862, a bill to amend the Small Business Act to improve the Office of International Trade, and for other purposes.

S. 2869

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2869, a bill to increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, and for other purposes.

S. 2989

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2989, a bill to improve the Small Business Act, and for other purposes.

S. 3039

At the request of Mr. UDALL of New Mexico, the names of the Senator from California (Mrs. BOXER) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3065

At the request of Mr. LIEBERMAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3065, a bill to amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as ''Don't Ask, Don't Tell'', with a policy of nondiscrimination on the basis of sexual orientation.

S. 3199

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3199, a bill to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3213

At the request of Mr. LEVIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3213, a bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance.

S. 3266

At the request of Mr. BENNET, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 3266, a bill to ensure the availability of loan guarantees for rural homeowners.

S. 3269

At the request of Mrs. GILLIBRAND, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 3269, a bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements.

S. 3326

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3326, a bill to provide grants to States for low-income housing projects in lieu of low-income housing credits, and to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of the low-income housing credit, and for other purposes.

S. 3339

At the request of Mr. KERRY, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 3339, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

S. 3361

At the request of Mr. BROWNBACK, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3361, a bill to require the Secretary of Defense to take illegal subsidization into account in evaluating proposals for contracts for major defense acquisition programs, and for other purposes.

S. 3389

At the request of Mrs. HAGAN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 3389, a bill to amend title 38, United States Code, to exempt individuals who receive certain educational assistance for service in the Selected Reserve from limitations on the receipt of assistance under Post-9/11 Educational Assistance Program for additional service in the Armed Forces, and for other purposes.

S. 3398

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3398, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 3412

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 3412, a bill to provide emergency operating funds for public transportation.

S. 3431

At the request of Mr. MENENDEZ, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3431, a bill to improve the administration of the Minerals Management Service, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Texas (Mr. CORNYN) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. BURRIS), the Senator from New York (Mrs. GILLIBRAND) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S.J. Res. 29, supra.

S. RES. 519

At the request of Mr. DEMINT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 519, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the

United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent.

AMENDMENT NO. 4184

At the request of Ms. LANDRIEU, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of amendment No. 4184 proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4202

At the request of Mr. CORNYN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of amendment No. 4202 proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4204

At the request of Mr. FEINGOLD, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of amendment No. 4204 proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4244

At the request of Mr. BINGAMAN, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 4244 intended to be proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4251

At the request of Mr. MERKLEY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 4251 proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4253

At the request of Ms. COLLINS, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 4253 proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4279

At the request of Mr. BINGAMAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 4279 intended to be proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4282

At the request of Mr. PRYOR, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 4282 intended to be proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4294

At the request of Mr. VITTER, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of amendment No. 4294 intended to be proposed to H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. SNOWE, Mr. MERKLEY, Mr. BROWN of Massachusetts, Ms. STABENOW, Mr. SANDERS, Mr. DODD, Mrs. GILLIBRAND, Mr. CARPER, Mr. PRYOR, Mr. BEGICH, Ms. KLOBUCHAR, Ms. CANTWELL, and Mr. HARKIN):

S. 3434. A bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise to introduce the Home Star Energy Retrofit Act of 2010 and to recognize the original cosponsors of the bill: Senator WARNER, Senator GRAHAM, Senator SNOWE, Senator SANDERS, Senator BROWN of Massachusetts, Senator MERKLEY, Senator STABENOW, Senator DODD, Senator GILLIBRAND, Senator CARPER, Senator PRYOR and Senator HARKIN. This innovative legislation will save consumers money, create American skilled labor jobs, and reduce home energy consumption.

If enacted, HOME STAR will build on existing policies and initiatives that have already proved effective. The program is supported by a broad coalition of over 600 groups including construction contractors, building products and mechanical manufacturers, retail sales businesses, environmental groups and labor advocates.

HOME STAR will provide point-of-sale instant savings to encourage homeowners to install residential energy upgrades such as air sealing, insulation, and high efficiency furnaces and water heaters.

HOME STAR incorporates a two-tiered approach that will offer flexibility to homeowners when choosing efficiency improvements to install. Under the Silver Star program, rebates averaging $1,000 will be offered for the installation of each eligible energy-saving measure such as new insulation and high-efficiency heating and cooling systems, up to maximum of $3,000 per home. Under the Gold Star program, there will be performance-based grants of $3,000 for a 20 percent reduction in home energy consumption and $1,000 for each additional 5 percent of verified energy reduction as determined by a comparison of the energy consumption of the home before and after the retrofit.

In addition to the short-term rebate programs in Home Star, our revised bill includes longer term efficiency tax policies to maintain the momentum for energy efficient home retrofits. These performance-based energy improvement tax credits will encourage the continuation of Gold Star-type whole home retrofits.

HOME STAR will create American jobs in the construction industry, which has lost 1.6 million jobs since December 2007, with unemployment rates topping 25 percent in some regions. HOME STAR leverages private investment to create a strong market for home energy retrofits, and will put hundreds of thousands of unemployed Americans back to work as well as stimulating demand for building materials produced by American factories.

Finally, HOME STAR will reduce home energy consumption and dependence on foreign oil. HOME STAR helps Americans pay for cost-effective home improvements, create permanent reductions in household energy bills, and reduce our national carbon footprint. Residential energy efficiency improvements covered by the HOME STAR program reduce energy waste in most homes by 20 to 40 percent. When combined with low-interest financing, these retrofits can be cash-flow positive upon project completion. An initiative with a potential to retrofit over 3 million homes, HOME STAR will achieve significant reductions in building-related greenhouse gas emissions while generating long-term energy savings for American consumers and reducing energy usage by an amount equal to four 300 megawatt power plants.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3434

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Home Star Energy Retrofit Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HOME STAR ENERGY RETROFITS

Sec. 101. Definitions.
Sec. 102. Home Star Retrofit Rebate Program.
Sec. 103. Contractors.
Sec. 104. Rebate aggregators.
Sec. 105. Quality assurance providers.
Sec. 106. Silver Star Home Energy Retrofit Program.

Sec. 107. Gold Star Home Energy Retrofit Program.
Sec. 108. Grants to States and Indian tribes.
Sec. 109. Quality assurance framework.
Sec. 110. Report.
Sec. 111. Administration.
Sec. 112. Treatment of rebates.
Sec. 113. Penalties.
Sec. 114. Home Star Energy Efficiency Loan Program.
Sec. 115. Funding.

TITLE II—PERFORMANCE BASED ENERGY IMPROVEMENT TAX CREDITS

Sec. 201. Performance based energy improvements for nonbusiness property.

TITLE I—HOME STAR ENERGY RETROFITS

SEC. 101. DEFINITIONS.

In this title:

(1) ACCREDITED CONTRACTOR.—The term ''accredited contractor'' means a residential energy efficiency contractor that meets the minimum applicable requirements established under section 103.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) BPI.—The term ''BPI'' means the Building Performance Institute.

(4) CERTIFIED WORKFORCE.—The term ''certified workforce'' means a residential energy efficiency construction workforce that is entirely certified in the appropriate job skills for all employees performing installation work under—

(A) an applicable third party skills standard established—

(i) by the BPI;

(ii) by the North American Technician Excellence;

(iii) by the Laborers' International Union of North America; or

(iv) in the State in which the work is to be performed, pursuant to a program operated by the Home Builders Institute in connection with Ferris State University, to be effective beginning on the date that is 30 days after the date notice is provided by those organizations to the Secretary that the program has been established in the State unless the Secretary determines, not later than 30 days after the date of the notice, that the standard or certification is incomplete; or

(B) other standards approved by the Secretary, in consultation with the Secretary of Labor and the Administrator.

(5) CONDITIONED SPACE.—The term ''conditioned space'' means the area of a home that is—

(A) intended for habitation; and

(B) intentionally heated or cooled.

(6) DOE.—The term ''DOE'' means the Department of Energy.

(7) ELECTRIC UTILITY.—The term ''electric utility'' means any person or State agency that delivers or sells electric energy at retail, including nonregulated utilities and utilities that are subject to State regulation and Federal power marketing administrations.

(8) EPA.—The term ''EPA'' means the Environmental Protection Agency.

(9) FEDERAL REBATE PROCESSING SYSTEM.—The term ''Federal Rebate Processing System'' means the Federal Rebate Processing System established under section 102(b).

(10) GOLD STAR HOME ENERGY RETROFIT PROGRAM.—The term ''Gold Star Home Energy Retrofit Program'' means the Gold Star Home Energy Retrofit Program established under section 107.

(11) HOME.—The term ''home'' means a principal residential dwelling unit in a building with no more than 4 dwelling units that—

(A) is located in the United States; and

(B) was constructed before the date of enactment of this Act.

(12) HOMEOWNER.—The term ''homeowner'' means the resident or non-resident owner of record of a home.

(13) HOME STAR LOAN PROGRAM.—The term ''Home Star loan program'' means the Home Star energy efficiency loan program established under section 114(a).

(14) HOME STAR RETROFIT REBATE PROGRAM.—The term ''Home Star Retrofit Rebate Program'' means the Home Star Retrofit Rebate Program established under section 102(a).

(15) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(16) NATURAL GAS UTILITY.—The term ''natural gas utility'' means any person or State agency that transports, distributes, or sells natural gas at retail, including nonregulated utilities and utilities that are subject to State regulation.

(17) QUALIFIED CONTRACTOR.—The term ''qualified contractor'' means a residential energy efficiency contractor that meets minimum applicable requirements established under section 103.

(18) QUALITY ASSURANCE FRAMEWORK.—The term ''quality assurance framework'' means a policy adopted by a State to develop high standards for ensuring quality in ongoing energy efficiency retrofit activities in which the State has a role, including operation of the quality assurance program and creating significant employment opportunities, in particular for targeted workers.

(19) QUALITY ASSURANCE PROGRAM.—

(A) IN GENERAL.—The term ''quality assurance program'' means a program established under this title or recognized by the Secretary under this title, to oversee the delivery of home efficiency retrofit programs to ensure that work is performed in accordance with standards and criteria established under this title.

(B) INCLUSIONS.—For purposes of subparagraph (A), delivery of retrofit programs includes delivery of quality assurance reviews of rebate applications and field inspections for a portion of customers receiving rebates and conducted by a quality assurance provider, with the consent of participating consumers and without delaying rebate payments to participating contractors.

(20) QUALITY ASSURANCE PROVIDER.—The term ''quality assurance provider'' means any entity that meets the minimum applicable requirements established under section 105.

(21) REBATE AGGREGATOR.—The term ''rebate aggregator'' means an entity that meets the requirements of section 104.

(22) RESNET.—The term ''RESNET'' means the Residential Energy Services Network, which is a nonprofit certification and standard setting organization for home energy raters that evaluate the energy performance of a home.

(23) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(24) SILVER STAR HOME ENERGY RETROFIT PROGRAM.—The term ''Silver Star Home Energy Retrofit Program'' means the Silver Star Home Energy Retrofit Program established under section 106.

(25) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the United States Virgin Islands; and

(H) any other territory or possession of the United States.

(26) VENDOR.—The term ''vendor'' means any retailer that sells directly to homeowners and contractors the materials used for the energy savings measures under section 106.

SEC. 102. HOME STAR RETROFIT REBATE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish the Home Star Retrofit Rebate Program.

(b) FEDERAL REBATE PROCESSING SYSTEM.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury and the Administrator, shall—

(i) establish a Federal Rebate Processing System which shall serve as a database and information technology system that will allow rebate aggregators to submit claims for reimbursement using standard data protocols;

(ii) establish a national retrofit website that provides information on the Home Star Retrofit Rebate Program, including—

(I) how to determine whether particular efficiency measures are eligible for rebates; and

(II) how to participate in the program;

(iii) make available, on a designated website, model forms for compliance with all applicable requirements of this title, to be submitted by—

(I) each qualified contractor on completion of an eligible home energy retrofit; and

(II) each quality assurance provider on completion of field verification; and

(iv) subject to section 115, provide such administrative and technical support to rebate aggregators and States as is necessary to carry out this title.

(B) DISTRIBUTION OF FUNDS.—Not later than 10 days after the date of receipt of bundled rebate applications from a rebate aggregator, the Secretary shall distribute funds to the rebate aggregator on approved claims for reimbursement made to the Federal Rebate Processing System.

(C) FUNDING AVAILABILITY.—The Secretary shall post, on a weekly basis, on the national retrofit website established under subparagraph (A)(ii) information on—

(i) the number of rebate claims approved for reimbursement; and

(ii) the total amount of funds disbursed for rebates.

(D) PROGRAM ADJUSTMENT OR TERMINATION.—Based on the information described in subparagraph (C), the Secretary shall announce a termination date and reserve funding to process the rebate applications that are in the Federal Rebate Processing System prior to the termination date.

(2) MODEL FORMS.—In carrying out this section, the Secretary shall consider the model forms developed by the National Home Performance Council.

(c) ADMINISTRATIVE AND TECHNICAL SUPPORT.—Effective beginning not later than 30 days after the date of enactment of this Act, the Secretary shall provide such administrative and technical support to rebate aggregators and States as is necessary to carry out this title.

(d) PUBLIC INFORMATION CAMPAIGN.—Not later than 60 days after the date of enactment of this Act, the Administrator shall develop and implement a public education campaign that describes, at a minimum—

(1) the benefits of home energy retrofits;

(2) the availability of rebates for—

(A) the installation of qualifying efficiency measures; and

(B) whole home efficiency improvements; and

(3) the requirements for qualified contractors and accredited contractors.

(e) LIMITATION.—Silver Star rebates provided under section 106 and Gold Star rebates provided under section 107 may be provided for the same home only if—

(1) Silver Star rebates are awarded prior to Gold Star rebates;

(2) energy savings obtained from measures under the Silver Star Home Energy Retrofit Program are not counted towards the simulated energy savings that determine the value of a rebate under the Gold Star Home Energy Retrofit Program; and

(3) the combined Silver Star and Gold Star rebates provided to the individual homeowner do not exceed $8,000.

(f) AVAILABILITY.—Not later than 90 days after the date of enactment of this Act, the Secretary shall ensure that Home Star retrofit rebates are available to all homeowners in the United States to the maximum extent practicable.

SEC. 103. CONTRACTORS.

(a) CONTRACTOR QUALIFICATIONS FOR SILVER STAR HOME ENERGY RETROFIT PROGRAM.—A contractor may perform retrofit work under the Silver Star Home Energy Retrofit Program in a State for which rebates are provided under this title only if the contractor meets or provides—

(1) all applicable contractor licensing requirements established by the State or, if none exist at the State level, the Secretary;

(2) insurance coverage of at least $1,000,000 for general liability, and for such other purposes and in such other amounts as required by the State;

(3) warranties to homeowners that completed work will—

(A) be free of significant defects;

(B) be installed in accordance with the specifications of the manufacturer; and

(C) perform properly for a period of at least 1 year after the date of completion of the work;

(4) an agreement to provide the owner of a home, through a discount, the full economic value of all rebates received under this title with respect to the home; and

(5) an agreement to provide the homeowner, before a contract is executed between the contractor and a homeowner covering the eligible work, a notice of —

(A) the rebate amount the contractor intends to apply for with respect to eligible work under this title; and

(B) the means by which the rebate will be passed through as a discount to the homeowner.

(b) CONTRACTOR QUALIFICATIONS FOR GOLD STAR HOME ENERGY RETROFIT PROGRAM.—A contractor may perform retrofit work under the Gold Star Home Energy Retrofit Program in a State for which rebates are provided under this title only if the contractor—

(1) meets the requirements for qualified contractors under subsection (a); and

(2) is accredited—

(A) by the BPI; or

(B) under other standards approved by the Secretary, in consultation with the Administrator.

(c) HEALTH AND SAFETY REQUIREMENTS.—Nothing in this title relieves any contractor from the obligation to comply with applicable Federal, State, and local health and safety code requirements.

SEC. 104. REBATE AGGREGATORS.

(a) IN GENERAL.—The Secretary shall develop a network of rebate aggregators that can facilitate the delivery of rebates to participating contractors and vendors for discounts provided to homeowners for energy efficiency retrofit work.

(b) RESPONSIBILITIES.—Rebate aggregators shall—

(1) review the proposed rebate application for completeness and accuracy;

(2) review measures under the Silver Star Home Energy Retrofit Program and energy savings under the Gold Star Home Energy Retrofit Program for eligibility in accordance with this title;

(3) provide data to the Federal Data Processing Center consistent with data protocols established by the Secretary; and

(4) distribute funds received from DOE to contractors, vendors, or other persons.

(c) PROCESSING REBATE APPLICATIONS.—A rebate aggregator shall—

(1) submit the rebate application to the Federal Rebate Processing Center not later than 10 days after the date of receipt of a rebate application from a contractor; and

(2) distribute funds to the contractor not later than 10 days after the date of receipt from the Federal Rebate Processing System.

(d) ELIGIBILITY.—To be eligible to apply to the Secretary for approval as a rebate aggregator, an entity shall be—

(1) a Home Performance with Energy Star partner;

(2) an entity administering a residential energy efficiency retrofit program established or approved by a State;

(3) a Federal Power Marketing Administration, an electric utility, or a natural gas utility that has—

(A) an approved residential energy efficiency retrofit program; and

(B) an established quality assurance provider network; or

(4) an entity that demonstrates to the Secretary that the entity can perform the functions of an rebate aggregator, without disrupting existing residential retrofits in the States that are incorporating the Home Star Program, including demonstration of—

(A) corporate status or status as a State or local government;

(B) the capability to provide electronic data to the Federal Rebate Processing System;

(C) a financial system that is capable of tracking the distribution of rebates to participating contractors; and

(D) coordination and cooperation by the entity with the appropriate State energy office regarding participation in the existing energy efficiency programs that will be delivering the Home Star Program.

(e) APPLICATION TO BECOME A REBATE AGGREGATOR.—Not later than 30 days after the date of receipt of an application of an entity seeking to become a rebate aggregator, the Secretary shall approve or deny the application on the basis of the eligibility criteria under subsection (d).

(f) APPLICATION PRIORITY.—In reviewing applications from entities seeking to become rebate aggregators, the Secretary shall give priority to entities that commit—

(1) to reviewing applications for participation in the program from all qualified contractors within a defined geographic region; and

(2) to processing rebate applications more rapidly than the minimum requirements established under the program.

(g) PUBLIC UTILITY COMMISSION EFFICIENCY TARGETS.—The Secretary shall—

(1) develop guidelines for States to use to allow utilities participating as rebate aggregators to count the energy savings from the participation of the utilities toward State-level energy savings targets; and

(2) work with States to assist in the adoption of the guidelines for the purposes and duration of the Home Star Retrofit Rebate Program.

SEC. 105. QUALITY ASSURANCE PROVIDERS.

(a) IN GENERAL.—An entity shall be considered a quality assurance provider under this title if the entity—

(1) is independent of the contractor;

(2) confirms the qualifications of contractors or installers of home energy efficiency retrofits;

(3) confirms compliance with the requirements of a ''certified workforce''; and

(4) performs field inspections and other measures required to confirm the compliance of the retrofit work under the Silver Star program, and the retrofit work and the simulated energy savings under the Gold Star program, based on the requirements of this title.

(b) INCLUSIONS.—An entity shall be considered a quality assurance provider under this title if the entity is qualified through—

(1) the International Code Council;

(2) the BPI;

(3) the RESNET;

(4) a State;

(5) a State-approved residential energy efficiency retrofit program; or

(6) any other entity designated by the Secretary, in consultation with the Administrator.

SEC. 106. SILVER STAR HOME ENERGY RETROFIT PROGRAM.

(a) IN GENERAL.—If the energy efficiency retrofit of a home is carried out after the date of enactment of this Act in accordance with this section, a rebate shall be awarded for the energy retrofit of a home for the installation of energy savings measures—

(1) selected from the list of energy savings measures described in subsection (b);

(2) installed in the home by a qualified contractor not later than 1 year after the date of enactment of this Act;

(3) carried out in compliance with this section; and

(4) subject to the maximum amount limitations established under subsection (d)(4).

(b) ENERGY SAVINGS MEASURES.—Subject to subsection (c), a rebate shall be awarded under this section for the installation of the following energy savings measures for a home energy retrofit that meet technical standards established under this section:

(1) Whole house air-sealing measures, in accordance with BPI standards or other procedures approved by the Secretary.

(2) Attic insulation measures that—

(A) include sealing of air leakage between the attic and the conditioned space, in accordance with BPI standards or the attic portions of the DOE or EPA thermal bypass checklist or other procedures approved by the Secretary;

(B) add at least R–19 insulation to existing insulation;

(C) result in at least R–38 insulation in DOE climate zones 1 through 4 and at least R–49 insulation in DOE climate zones 5 through 8, including existing insulation, within the limits of structural capacity; and

(D) cover at least—

(i) 100 percent of an accessible attic; or

(ii) 75 percent of the total conditioned footprint of the house.

(3) Duct seal or replacement that—

(A) is installed in accordance with BPI standards or other procedures approved by the Secretary; and

(B) in the case of duct replacement, replaces and seals at least 50 percent of a distribution system of the home.

(4) Wall insulation that—

(A) is installed in accordance with BPI standards or other procedures approved by the Secretary;

(B) is to full-stud thickness; and

(C) covers at least 75 percent of the total external wall area of the home.

(5) Crawl space insulation or basement wall and rim joist insulation that is installed in accordance with BPI standards or other procedures approved by the Secretary—

(A) covers at least 500 square feet of crawl space or basement wall and adds at least—

(i) R–19 of cavity insulation or R–15 of continuous insulation to existing crawl space insulation; or

(ii) R–13 of cavity insulation or R–10 of continuous insulation to basement walls; and

(B) fully covers the rim joist with at least R–10 of new continuous or R–13 of cavity insulation.

(6) Window replacement that replaces at least 8 exterior windows, or 75 percent of the exterior windows in a home, whichever is less, with windows that—

(A) are certified by the National Fenestration Rating Council; and

(B) comply with criteria applicable to windows under section 25(c) of the Internal Revenue Code of 1986.

(7) Door replacement that replaces at least 1 exterior door with doors that comply with criteria applicable to doors under the 2010 Energy Star specification for doors.

(8) Skylight replacement that replaces at least 1 skylight with skylights that comply with criteria applicable to skylights under the 2010 Energy Star specification for skylights.

(9)(A) Heating system replacement with—

(i) a natural gas or propane furnace with an AFUE rating of 92 or greater;

(ii) a natural gas or propane boiler with an AFUE rating of 90 or greater;

(iii) an oil furnace with an AFUE rating of 86 or greater and that uses an electrically commutated blower motor;

(iv) an oil boiler with an AFUE rating of 86 or greater and that has temperature reset or thermal purge controls; or

(v) a wood or wood pellet furnace, boiler, or stove, if—

(I) the new system—

(aa) meets at least 75 percent of the heating demands of the home; and

(bb) in the case of a wood stove, replaces an existing wood stove with a stove that is EPA-certified, if a voucher is provided by the installer or other responsible party certifying that the old stove has been removed and made inoperable;

(II) the home has a distribution system (such as ducts, vents, blowers, or affixed fans) that allows heat from the wood stove, furnace, or boiler to reach all or most parts of the home; and

(III) an independent test laboratory approved by the Secretary or the Administrator certifies that the new system—

(aa) has thermal efficiency (with a lower heating value) of at least 75 percent for stoves and 80 percent for furnaces and boilers; and

(bb) has particulate emissions of less than 3.0 grams per hour for wood stoves or pellet stoves, and less than 0.32 lbs per million BTU for outdoor boilers and furnaces.

(B) A rebate may be provided under this section for the replacement of a furnace or boiler described in clauses (i) through (iv) of subparagraph (A) only if the new furnace or boiler is installed in accordance with ANSI/ACCA Standard 5 QI – 2007.

(10) Automatic water temperature controllers that vary boiler water temperature in response to changes in outdoor temperature or the demand for heat, if the retrofit is to an existing boiler and not in conjunction with a new boiler.

(11) Air-conditioner or heat-pump replacement with a new unit that—

(A) is installed in accordance with ANSI/ACCA Standard 5 QI–2007; and

(B) meets or exceeds—

(i) in the case of an air-source conditioner, SEER 16 and EER 13;

(ii) in the case of an air-source heat pump, SEER 15, EER 12.5, and HSPF 8.5; and

(iii) in the case of a geothermal heat pump, Energy Star tier 2 efficiency requirements.

(12) Replacement of or with—

(A) a natural gas or propane water heater with a condensing storage water heater with an energy factor of 0.80 or more or a condensing storage water heater or tankless water heater with a thermal efficiency of 90 percent or more;

(B) a tankless natural gas or propane water heater with an energy factor of at least .82;

(C) a natural gas or propane storage water heater with an energy factor of at least .67;

(D) an indirect water heater with an insulated storage tank that—

(i) has a storage capacity of at least 30 gallons and is insulated to at least R–16; and

(ii) is installed in conjunction with a qualifying boiler described in paragraph (7);

(E) an electric water heater with an energy factor of 2.0 or more;

(F) a water heater with a solar hot water system that—

(i) is certified by the Solar Rating and Certification Corporation under specification SRCC-OG-300; or

(ii) meets technical standards established by the State of Hawaii; or

(G) a water heater installed in conjunction with a qualifying geothermal heat pump described in paragraph (11) that provides domestic water heating through the use of—

(i) year-round demand water heating capability; or

(ii) a desuperheater.

(13) Storm windows that—

(A) are installed on a least 5 single-glazed windows that do not have storm windows;

(B) are installed in a home listed on or eligible for listing in the National Register of Historic Places; and

(C) comply with any procedures that the Secretary may establish for storm windows (including installation).

(14) Roof replacement that replaces at least 75 percent of the roof area with energy-saving roof products certified under the Energy Star program.

(15) Window films that are installed on at least 8 exterior windows, doors, or skylights, or 75 percent of the total exterior square footage of glass, whichever is more, in a home with window films that—

(A) are certified by the National Fenestration Rating Council;

(B) have a Solar Heat Gain Coefficient of 0.40 or less with a visible light-to-solar heat gain ratio of at least 1.1 in 2009 International Energy Conservation Code climate zones 1 through 8; and

(C) are certified to reduce the U-factor of the National Fenestration Rating Council dual pane reference window by 0.05 or greater and are only applied to nonmetal frame dual pane windows in 2009 International Energy Conservation Code climate zones 4 through 8.

(c) INSTALLATION COSTS.—Measures described in paragraphs (1) through (15) of subsection (b) shall include expenditures for labor and other installation-related costs (including venting system modification and condensate disposal) properly allocable to the onsite preparation, assembly, or original installation of the component.

(d) AMOUNT OF REBATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the amount of a rebate provided under this section shall be $1,000 per measure for the installation of energy savings measures described in subsection (b)

(2) HIGHER REBATE AMOUNT.—Except as provided in paragraph (4), the amount of a rebate provided to the owner of a home or designee under this section shall be $1,500 per measure for—

(A) attic insulation and air sealing described in subsection (b)(2);

(B) wall insulation described in subsection (b)(4);

(C) a heating system described in subsection (b)(9); and

(D) an air-conditioner or heat-pump replacement described in subsection (b)(11).

(3) LOWER REBATE AMOUNT.—Except as provided in paragraph (4), the amount of a rebate provided under this section shall be—

(A) $125 per door for the installation of up to a maximum of 2 Energy Star doors described in subsection (b)(7) for each home;

(B) $125 per skylight for the installation of up to a maximum of 2 Energy Star skylights described in subsection (b)(8) for each home;

(C) $750 for a maximum of 1 natural gas or propane tankless water heater described in subsection (b)(12)(B) for each home;

(D) $450 for a maximum of 1 natural gas or propane storage water heater described in subsection (b)(12)(C) for each home;

(E) $250 for rim joist insulation described in subsection (b)(5)(B);

(F) $50 for each storm window described in subsection (b)(13);

(G) $500 for a desuperheater described in subsection (b)(12)(G)(ii);

(H) $500 for a wood or pellet stove that has a heating capacity of at least 28,000 BTU per hour (using the upper end of the range listed in the EPA list of Certified Wood Stoves) and meets all of the requirements of subsection (b)(9)(v) other than the requirements in items (aa) and (bb) of subsection (b)(9)(v)(I);

(I) $250 for an automatic water temperature controller described in subsection (b)(10);

(J) $500 for a roof described in subsection (b)(14); and

(K) $500 for window films described in subsection (b)(15).

(4) MAXIMUM AMOUNT.—The total amount of a rebate provided to the owner of a home or designee under this section shall not exceed the lower of—

(A) $3,000;

(B) the sum of the amounts per measure specified in paragraphs (1) through (3);

(C) 50 percent of the total cost of the installed measures; or

(D) the reduction in the price paid by the owner of the home, relative to the price of the installed measures in the absence of the Silver Star Home Energy Retrofit Program.

(e) INSULATION PRODUCTS PURCHASED WITHOUT INSTALLATION SERVICES.—

(1) IN GENERAL.—A rebate shall be awarded under this section for attic, wall, or crawl space insulation or air sealing product if—

(A) the product—

(i) qualifies for a credit under section 25C of the Internal Revenue Code of 1986 but is not the subject of a claim for the credit;

(ii) is purchased by a homeowner for installation by the homeowner in a home identified by the address of the homeowner;

(iii) is identified and attributed to a specific home in a submission by the vendor to a rebate aggregator;

(iv) is not part of—

(I) an energy savings measure described in paragraphs (6) through (11) of subsection (b); and

(II) a retrofit for which a rebate is provided under the Gold Star Home Energy Retrofit Program; and

(v) is not part of an energy savings measure described in paragraphs (1) through (5) in subsection (b) for which the homeowner received or will receive contracting services; and

(B) educational material on proper installation of the product is provided to the homeowner, including material on air sealing while insulating.

(2) AMOUNT.—A rebate under this subsection shall be awarded in an amount equal to 50 percent of the total cost of the products described in paragraph (1), but not to exceed $250 per home.

(f) QUALIFICATION FOR REBATE UNDER SILVER STAR HOME ENERGY RETROFIT PROGRAM.—On submission of a claim by a rebate aggregator to the system established under section 104, the Secretary shall provide reimbursement to the rebate aggregator for reduced-cost energy-efficiency measures installed in a home, if—

(1) the measures undertaken for the retrofit are—

(A) eligible measures described on the list established under subsection (b);

(B) installed properly in accordance with applicable technical specifications; and

(C) installed by a qualified contractor;

(2) the amount of the rebate does not exceed the maximum amount described in subsection (d)(4);

(3) not less than—

(A) 20 percent of the retrofits performed by each qualified contractor under this section are randomly subject to a third-party field verification of all work associated with the retrofit by a quality assurance provider; or

(B) in the case of qualified contractor that uses a certified workforce, 10 percent of the retrofits performed under this section are randomly subject to a third-party field verification of all work associated with the retrofit by a quality assurance provider; and

(4)(A) the installed measures will be brought into compliance with the specifications and quality standards for the Home Star Retrofit Rebate Program, by the installing qualified contractor, at no additional cost to the homeowner, not later than 14 days after the date of notification of a defect, if a field verification by a quality assurance provider finds that corrective work is needed;

(B) a subsequent quality assurance visit is conducted to evaluate the remedy not later than 7 days after notification by the contractor that the defect has been corrected; and

(C) notification of disposition of the visit occurs not later than 7 days after the date of that visit.

(g) HOMEOWNER COMPLAINTS.—

(1) IN GENERAL.—During the 1-year warranty period, a homeowner may make a complaint under the quality assurance program that compliance with the quality assurance requirements of this section has not been achieved.

(2) VERIFICATION.—

(A) IN GENERAL.—The quality assurance program shall provide that, on receiving a complaint under paragraph (1), an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor.

(B) ADMINISTRATION.—A verification under this paragraph shall be—

(i) in addition to verifications conducted under subsection (f)(3); and

(ii) corrected in accordance with subsection (f)(4).

(h) AUDITS.—

(1) IN GENERAL.—On making payment for a submission under this section, the Secretary shall review rebate requests to determine whether program requirements were met in all respects.

(2) INCORRECT PAYMENT.—On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, the Secretary may—

(A) recoup the amount of the incorrect payment; or

(B) withhold the amount of the incorrect payment from the next payment made to the party pursuant to a subsequent request.

SEC. 107. GOLD STAR HOME ENERGY RETROFIT PROGRAM.

(a) IN GENERAL.—If the energy efficiency retrofit of a home is carried out after the date of enactment of this Act by an accredited contractor in accordance with this section, a rebate shall be awarded for retrofits that achieve whole home energy savings.

(b) AMOUNT OF REBATE.—Subject to subsection (e), the amount of a rebate provided to the owner of a home or a designee of the owner under this section shall be—

(1) $3,000 for a 20-percent reduction in whole home energy consumption; and

(2) an additional $1,000 for each additional 5-percent reduction up to the lower of—

(A) $8,000; or

(B) 50 percent of the total retrofit cost (including the cost of audit and diagnostic procedures).

(c) ENERGY SAVINGS.—

(1) IN GENERAL.—Reductions in whole home energy consumption under this section shall be determined by a comparison of the simulated energy consumption of the home before and after the retrofit of the home.

(2) DOCUMENTATION.—The percent improvement in energy consumption under this section shall be documented through—

(A)(i) the use of a whole home simulation software program that has been approved as a commercial alternative under the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); or

(ii) a equivalent performance test established by the Secretary, in consultation with the Administrator; or

(B)(i) the use of a whole home simulation software program that has been approved under RESNET Publication No. 06–001 (or a successor publication approved by the Secretary);

(ii) an equivalent performance test established by the Secretary; or

(iii) a State-certified equivalent rating network, as specified by IRS Notice 2008–35; or

(iv) a HERS rating system required by State law.

(3) MONITORING.—The Secretary—

(A) shall continuously monitor the software packages used for determining rebates under this section; and

(B) may disallow the use of software programs that improperly assess energy savings.

(4) ASSUMPTIONS AND TESTING.—The Secretary may—

(A) establish simulation tool assumptions for the establishment of the pre-retrofit energy use;

(B) require compliance with software performance tests covering—

(i) mechanical system performance;

(ii) duct distribution system efficiency;

(iii) hot water performance; or

(iv) other measures; and

(C) require the simulation of pre-retrofit energy usage to be bounded by metered pre-retrofit energy usage.

(5) RECOMMENDED MEASURES.—The simulation tool shall have the ability at a minimum to assess the savings associated with all the measures for which incentives are specifically provided under the Silver Star Home Energy Retrofit Program.

(d) QUALIFICATION FOR REBATE UNDER GOLD STAR HOME ENERGY RETROFIT PROGRAM.—On submission of a claim by a rebate aggregator to the system established under section 104, the Secretary shall provide reimbursement to the rebate aggregator for reduced-cost whole-home retrofits, if—

(1) the retrofit is performed by an accredited contractor;

(2) the amount of the reimbursement is not more than the amount described in subsection (b);

(3) documentation described in subsection (c) is transmitted with the claim;

(4) a home receiving a whole-home retrofit is subject to random third-party field verification by a quality assurance provider in accordance with subsection (e); and

(5)(A) the installed measures will be brought into compliance with the specifications and quality standards for the Home Star Retrofit Rebate Program, by the installing qualified contractor, at no additional cost to the homeowner, not later than 14 days after the date of notification of a defect if a field verification by a quality assurance provider finds that corrective work is needed;

(B) a subsequent quality assurance visit is conducted to evaluate the remedy not later than 7 days after notification by the contractor that the defect has been corrected; and

(C) notification of disposition of the visit occurs not later than 7 days after the date of that visit.

(e) VERIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), all work installed in a home receiving a whole-home retrofit by an accredited contractor under this section shall be subject to random third-party field verification by a quality assurance provider at a rate of—

(A) 15 percent; or

(B) in the case of work performed by an accredited contractor using a certified workforce, 10 percent.

(2) VERIFICATION NOT REQUIRED.—A home shall not be subject to random third-party field verification under this section if—

(A) a post-retrofit home energy rating is conducted by an eligible certifier in accordance with—

(i) RESNET Publication No. 06–001 (or a successor publication approved by the Secretary);

(ii) a State-certified equivalent rating network, as specified in IRS Notice 2008–35; or

(iii) a HERS rating system required by State law;

(B) the eligible certifier is independent of the qualified contractor or accredited contractor in accordance with RESNET Publication No. 06–001 (or a successor publication approved by the Secretary); and

(C) the rating includes field verification of measures.

(f) HOMEOWNER COMPLAINTS.—

(1) IN GENERAL.—A homeowner may make a complaint under the quality assurance program during the 1-year warranty period that compliance with the quality assurance requirements of this section has not been achieved.

(2) VERIFICATION.—

(A) IN GENERAL.—The quality assurance program shall provide that, on receiving a complaint under paragraph (1), an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor.

(B) ADMINISTRATION.—A verification under this paragraph shall be—

(i) in addition to verifications conducted under subsection (e)(1); and

(ii) corrected in accordance with subsection (e).

(g) AUDITS.—

(1) IN GENERAL.—On making payment for a submission under this section, the Secretary shall review rebate requests to determine whether program requirements were met in all respects.

(2) INCORRECT PAYMENT.—On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, the Secretary may—

(A) recoup the amount of the incorrect payment; or

(B) withhold the amount of the incorrect payment from the next payment made to the party pursuant to a subsequent request.

SEC. 108. GRANTS TO STATES AND INDIAN TRIBES.

(a) IN GENERAL.—A State or Indian tribe that receives a grant under subsection (d) shall use the grant for—

(1) administrative costs;

(2) oversight of quality assurance plans;

(3) development of ongoing quality assurance framework;

(4) establishment and delivery of financing pilots in accordance with this title;

(5) coordination with existing residential retrofit programs and infrastructure development to assist deployment of the Home Star program;

(6) assisting in the delivery of services to rental units; and

(7) the costs of carrying out the responsibilities of the State or Indian tribe under the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program.

(b) INITIAL GRANTS.—Not later than 30 days after the date of enactment of this Act, the Secretary shall make the initial grants available under this section.

(c) INDIAN TRIBES.—The Secretary shall reserve an appropriate amount of funding to be made available to carry out this section for each fiscal year to make grants available to Indian tribes under this section.

(d) STATE ALLOTMENTS.—From the amounts made available to carry out this section for each fiscal year remaining after the reservation required under subsection (c), the Secretary shall make grants available to States in accordance with section 115.

(e) QUALITY ASSURANCE PROGRAMS.—

(1) IN GENERAL.—A State or Indian tribe may use a grant made under this section to carry out a quality assurance program that is—

(A) operated as part of a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.);

(B) managed by the office or the designee of the office that is—

(i) responsible for the development of the plan under section 362 of that Act (42 U.S.C. 6322); and

(ii) to the maximum extent practicable, conducting an existing energy efficiency program; and

(C) in the case of a grant made to an Indian tribe, managed by an entity designated by the Indian tribe to carry out a quality assurance program or a national quality assurance program manager.

(2) NONCOMPLIANCE.—If the Secretary determines that a State or Indian tribe has not provided or cannot provide adequate oversight over a quality assurance program to ensure compliance with this title, the Secretary may—

(A) withhold further quality assurance funds from the State or Indian tribe; and

(B) require that quality assurance providers operating in the State or by the Indian tribe be overseen by a national quality assurance program manager selected by the Secretary.

(f) IMPLEMENTATION.—A State or Indian tribe that receives a grant under this section may implement a quality assurance program through the State, the Indian tribe, or a third party designated by the State or Indian tribe, including—

(1) an energy service company;

(2) an electric utility;

(3) a natural gas utility;

(4) a third-party administrator designated by the State or Indian tribe; or

(5) a unit of local government.

(g) PUBLIC-PRIVATE PARTNERSHIPS.—A State or Indian tribe that receives a grant under this section are encouraged to form partnerships with utilities, energy service companies, and other entities—

(1) to assist in marketing a program;

(2) to facilitate consumer financing;

(3) to assist in implementation of the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program, including installation of qualified energy retrofit measures; and

(4) to assist in implementing quality assurance programs.

(h) COORDINATION OF REBATE AND EXISTING STATE-SPONSORED PROGRAMS.—

(1) IN GENERAL.—A State or Indian tribe shall, to the maximum extent practicable, prevent duplication through coordination of a program authorized under this title with—

(A) the Energy Star appliance rebates program authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115); and

(B) comparable programs planned or operated by States, political subdivisions, electric and natural gas utilities, Federal power marketing administrations, and Indian tribes.

(2) EXISTING PROGRAMS.—In carrying out this subsection, a State or Indian tribe shall—

(A) give priority to—

(i) comprehensive retrofit programs in existence on the date of enactment of this Act, including programs under the supervision of State utility regulators; and

(ii) using Home Star funds made available under this title to enhance and extend existing programs; and

(B) seek to enhance and extend existing programs by coordinating with administrators of the programs.

SEC. 109. QUALITY ASSURANCE FRAMEWORK.

(a) IN GENERAL.—Not later than 180 days after the date that the Secretary initially provides funds to a State under this title, the State shall submit to the Secretary a plan to implement a quality assurance program that covers all federally assisted residential efficiency retrofit work administered, supervised, or sponsored by the State.

(b) IMPLEMENTATION.—The State shall—

(1) develop a quality assurance framework in consultation with industry stakeholders, including representatives of efficiency program managers, contractors, and environmental, energy efficiency, and labor organizations; and

(2) implement the quality assurance framework not later than 1 year after the date of enactment of this Act.

(c) COMPONENTS.—The quality assurance framework established under this section shall include—

(1) a requirement that contractors be prequalified in order to be authorized to perform federally assisted residential retrofit work;

(2) maintenance of a list of prequalified contractors authorized to perform federally assisted residential retrofit work; and

(3) minimum standards for prequalified contractors that include—

(A) accreditation;

(B) legal compliance procedures;

(C) proper classification of employees; and

(D) maintenance of records needed to verify compliance;

(4) targets and realistic plans for—

(A) the recruitment of small minority or women-owned business enterprises;

(B) the employment of graduates of training programs that primarily serve low-income populations with a median income that is below 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section)) by participating contractors; and

(5) a plan to link workforce training for energy efficiency retrofits with training for the broader range of skills and occupations in construction or emerging clean energy industries.

(d) NONCOMPLIANCE.—If the Secretary determines that a State has not taken the steps required under this section, the Secretary shall provide to the State a period of at least 90 days to comply before suspending the participation of the State in the program.

SEC. 110. REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the use of funds under this title.

(b) CONTENTS.—The report shall include a description of—

(1) the energy savings produced as a result of this title;

(2) the direct and indirect employment created as a result of the programs supported by the funds provided under this title;

(3) the specific entities implementing the energy efficiency programs;

(4) the beneficiaries who received the efficiency improvements;

(5) the manner in which funds provided under this title were used;

(6) the sources (such as mortgage lenders, utility companies, and local governments) and types of financing used by the beneficiaries to finance the retrofit expenses that were not covered by grants provided under this title; and

(7) the results of verification requirements; and

(8) any other information the Secretary considers appropriate

(c) NONCOMPLIANCE.—If the Secretary determines that a rebate aggregator, State, or Indian tribe has not provided the information required under this section, the Secretary shall provide to the rebate aggregator, State, or Indian tribe a period of at least 90 days to provide any necessary information, subject to penalties imposed by the Secretary for entities other than States and Indian tribes, which may include withholding of funds or reduction of future grant amounts.

SEC. 111. ADMINISTRATION.

(a) IN GENERAL.—Subject to section 115(b), not later than 30 days after the date of enactment of this Act, the Secretary shall provide such administrative and technical support to rebate aggregators, States, and Indian tribes as is necessary to carry out the functions designated to States under this title.

(b) APPOINTMENT OF PERSONNEL.—Notwithstanding the provisions of title 5, United States Code, governing appointments in the competitive service and General Schedule classifications and pay rates, the Secretary may appoint such professional and administrative personnel as the Secretary considers necessary to carry out this title.

(c) RATE OF PAY.—The rate of pay for a person appointed under subsection (a) shall not exceed the maximum rate payable for GS–15 of the General Schedule under chapter 53 of title 5, United States Code.

(d) CONSULTANTS.—Notwithstanding section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary may retain such consultants on a noncompetitive basis as the Secretary considers necessary to carry out this title.

(e) CONTRACTING.—In carrying out this title, the Secretary may waive all or part of any provision of the Competition in Contracting Act of 1984 (Public Law 98–369; 98 Stat. 1175), an amendment made by that Act, or the Federal Acquisition Regulation on a

determination that circumstances make compliance with the provisions contrary to the public interest.

(f) REGULATIONS.—

(1) IN GENERAL.—Notwithstanding section 553 of title 5, United States Code, the Secretary may issue regulations that the Secretary, in the sole discretion of the Secretary, determines necessary to carry out the Home Star Retrofit Rebate Program.

(2) DEADLINE.—If the Secretary determines that regulations described in paragraph (1) are necessary, the regulations shall be issued not later than 60 days after the date of the enactment of this Act.

(g) INFORMATION COLLECTION.—Chapter 35 of title 44, United States Code, shall not apply to any information collection requirement necessary for the implementation of the Home Star Retrofit Rebate Program.

(h) ADJUSTMENT OF REBATE AMOUNTS.—Effective beginning on the date that is 180 days after the date of enactment of this Act, the Secretary may, after not less than 30 days public notice, prospectively adjust the rebate amounts provided in this section based on—

(1) the use of the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program; and

(2) other program data.

SEC. 112. TREATMENT OF REBATES.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, rebates received for eligible measures under this title—

(1) shall not be considered taxable income to a homeowner;

(2) shall prohibit the consumer from applying for a tax credit allowed under section 25C, 25D, or 25E of that Code for the same eligible measures performed in the home of the homeowner; and

(3) shall be considered a credit allowed under section 25C, 25D, or 25E of that Code for purposes of any limitation on the amount of the credit under that section.

(b) NOTICE.—

(1) IN GENERAL.—A participating contractor shall provide notice to a homeowner of the provisions of subsection (a) before eligible work is performed in the home of the homeowner.

(2) NOTICE IN REBATE FORM.—A homeowner shall be notified of the provisions of subsection (a) in the appropriate rebate form developed by the Secretary, in consultation with the Secretary of the Treasury.

(3) AVAILABILITY OF REBATE FORM.—A participating contractor shall obtain the rebate form on a designated website in accordance with section 102(b)(1)(A)(iii).

SEC. 113. PENALTIES.

(a) IN GENERAL.—It shall be unlawful for any person to violate this title (including any regulation issued under this title), other than a violation as the result of a clerical error.

(b) CIVIL PENALTY.—Any person who commits a violation of this title shall be liable to the United States for a civil penalty in an amount that is not more than the higher of—

(1) $15,000 for each violation; or

(2) 3 times the value of any associated rebate under this title.

(c) ADMINISTRATION.—The Secretary may—

(1) assess and compromise a penalty imposed under subsection (b); and

(2) require from any entity the records and inspections necessary to enforce this title.

(d) FRAUD.—In addition to any civil penalty, any person who commits a fraudulent violation of this title shall be subject to criminal prosecution.

SEC. 114. HOME STAR ENERGY EFFICIENCY LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PARTICIPANT.—The term ''eligible participant'' means a homeowner who receives financial assistance from a qualified financing entity to carry out energy efficiency or renewable energy improvements to an existing home or other residential building of the homeowner in accordance with the Gold Star Home Energy Retrofit Program or the Silver Star Home Energy Retrofit Program.

(2) PROGRAM.—The term ''program'' means the Home Star Energy Efficiency Loan Program established under subsection (b).

(3) QUALIFIED FINANCING ENTITY.—The term ''qualified financing entity'' means a State, political subdivision of a State, tribal government, electric utility, natural gas utility, nonprofit or community-based organization, energy service company, retailer, or any other qualified entity that—

(A) meets the eligibility requirements of this section; and

(B) is designated by the Governor of a State in accordance with subsection (e).

(4) QUALIFIED LOAN PROGRAM MECHANISM.—The term ''qualified loan program mechanism'' means a loan program that is—

(A) administered by a qualified financing entity; and

(B) principally funded—

(i) by funds provided by or overseen by a State; or

(ii) through the energy loan program of the Federal National Mortgage Association.

(b) ESTABLISHMENT.—The Secretary shall establish a Home Star Energy Efficiency Loan Program under which the Secretary shall make funds available to States to support financial assistance provided by qualified financing entities for making, to existing homes, energy efficiency improvements that qualify under the Gold Star Home Energy Retrofit Program or the Silver Star Home Energy Retrofit Program.

(c) ELIGIBILITY OF QUALIFIED FINANCING ENTITIES.—To be eligible to participate in the program, a qualified financing entity shall—

(1) offer a financing product under which eligible participants may pay over time for the cost to the eligible participant (after all applicable Federal, State, local, and other rebates or incentives are applied) of making improvements described in subsection (b);

(2) require all financed improvements to be performed by contractors in a manner that meets minimum standards that are at least as stringent as the standards provided under sections 106 and 107; and

(3) establish standard underwriting criteria to determine the eligibility of program applicants, which criteria shall be consistent with—

(A) with respect to unsecured consumer loan programs, standard underwriting criteria used under the energy loan program of the Federal National Mortgage Association; or

(B) with respect to secured loans or other forms of financial assistance, commercially recognized best practices applicable to the form of financial assistance being provided (as determined by the designated entity administering the program in the State).

(d) ALLOCATION.—In making funds available to States for each fiscal year under this section, the Secretary shall use the formula used to allocate funds to States to carry out State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(e) QUALIFIED FINANCING ENTITIES.—Before making funds available to a State under this section, the Secretary shall require the Governor of the State to provide to the Secretary a letter of assurance that the State—

(1) has 1 or more qualified financing entities that meet the requirements of this section;

(2) has established a qualified loan program mechanism that—

(A) includes a methodology to ensure credible energy savings or renewable energy generation;

(B) incorporates an effective repayment mechanism, which may include—

(i) on-utility-bill repayment;

(ii) tax assessment or other form of property assessment financing;

(iii) municipal service charges;

(iv) energy or energy efficiency services contracts;

(v) energy efficiency power purchase agreements;

(vi) unsecured loans applying the underwriting requirements of the energy loan program of the Federal National Mortgage Association; or

(vii) alternative contractual repayment mechanisms that have been demonstrated to have appropriate risk mitigation features; and

(C) will provide, in a timely manner, all information regarding the administration of the program as the Secretary may require to permit the Secretary to meet the reporting requirements of subsection (h).

(f) USE OF FUNDS.—Funds made available to States under the program may be used to support financing products offered by qualified financing entities to eligible participants for eligible energy efficiency work, by providing—

(1) interest rate reductions;

(2) loan loss reserves or other forms of credit enhancement;

(3) revolving loan funds from which qualified financing entities may offer direct loans; or

(4) other debt instruments or financial products necessary—

(A) to maximize leverage provided through available funds; and

(B) to support widespread deployment of energy efficiency finance programs.

(g) USE OF REPAYMENT FUNDS.—In the case of a revolving loan fund established by a State described in subsection (f)(3), a qualified financing entity may use funds repaid by eligible participants under the program to provide financial assistance for additional eligible participants to make improvements described in subsection (b) in a manner that is consistent with this section or other such criteria as are prescribed by the State.

(h) PROGRAM EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a program evaluation that describes—

(1) how many eligible participants have participated in the program;

(2) how many jobs have been created through the program, directly and indirectly;

(3) what steps could be taken to promote further deployment of energy efficiency and renewable energy retrofits;

(4) the quantity of verifiable energy savings, homeowner energy bill savings, and other benefits of the program; and

(5) the performance of the programs carried out by qualified financing entities under this section, including information on the rate of default and repayment.

(i) CREDIT SUPPORT FOR FINANCING PROGRAMS.—Section 1705 of the Energy Policy Act of 2005 (42 U.S.C. 16516) is amended—

(1) in subsection (a), by adding at the end the following:

''(4) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment, including financing programs that finance the retrofitting of residential, commercial, and industrial buildings, facilities, and equipment.''.

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

''(e) CREDIT SUPPORT FOR FINANCING PROGRAMS.—

''(1) IN GENERAL.—In the case of programs that finance the retrofitting of residential, commercial, and industrial buildings, facilities, and equipment described in subsection (a)(4), the Secretary may—

''(A) offer loan guarantees for portfolios of debt obligations; and

''(B) purchase or make commitments to purchase portfolios of debt obligations.

''(2) TERM.—Notwithstanding section 1702(f), the term of any debt obligation that receives credit support under this subsection shall require full repayment over a period not to exceed the lesser of—

''(A) 30 years; and

''(B) the projected weighted average useful life of the measure or system financed by the debt obligation or portfolio of debt obligations (as determined by the Secretary).

''(3) UNDERWRITING.—The Secretary may—

''(A) delegate underwriting responsibility for portfolios of debt obligations under this subsection to financial institutions that meet qualifications determined by the Secretary; and

''(B) determine an appropriate percentage of loans in a portfolio to review in order to confirm sound underwriting.

''(4) ADMINISTRATION.—Subsections (c) and (d)(3) of section 1702 and subsection (c) of this section shall not apply to loan guarantees made under this subsection.''.

(j) TERMINATION OF EFFECTIVENESS.—The authority provided by this section and the amendments made by this section terminates effective on the date that is 2 years after the date of enactment of this Act.

SEC. 115. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to subsection (j), there is authorized to be appropriated to carry out this title $5,000,000,000 for the period of fiscal years 2010 through 2012.

(2) MAINTENANCE OF FUNDING.—Funds provided under this section shall supplement and not supplant any Federal and State funding provided to carry out energy efficiency programs in existence on the date of enactment of this Act.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—Of the amount provided under subsection (a), $380,000,000 or not more than 6 percent, whichever is less, shall be used to carry out section 108.

(2) DISTRIBUTION TO STATE ENERGY OFFICES.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall—

(i) provide to State energy offices 25 percent of the funds described in paragraph (1); and

(ii) determine a formula to provide the balance of funds to State energy offices through a performance-based system.

(B) ALLOCATION.—

(i) ALLOCATION FORMULA.—Funds described in subparagraph (A)(i) shall be made available in accordance with the allocation formula for State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C.6321 et seq.).

(ii) PERFORMANCE-BASED SYSTEM.—The balance of the funds described in subparagraph (A)(ii) shall be made available in accordance with the performance-based system described in subparagraph (A)(ii).

(c) QUALITY ASSURANCE COSTS.—

(1) IN GENERAL.—Of the amount provided under subsection (a), not more than 5 percent shall be used to carry out the quality assurance provisions of this title.

(2) MANAGEMENT.—Funds provided under this subsection shall be overseen by—

(A) State energy offices described in subsection (b)(2); or

(B) other entities determined by the Secretary to be eligible to carry out quality assurance functions under this title.

(3) DISTRIBUTION TO QUALITY ASSURANCE PROVIDERS OR REBATE AGGREGATORS.—The Secretary shall use funds provided under this subsection to compensate quality assurance providers, or rebate aggregators, for services under the Silver Star Home Energy Retrofit Program or the Gold Star Home Energy Retrofit Program through the Federal Rebate Processing Center based on the services provided to contractors under a quality assurance program and rebate aggregation.

(4) INCENTIVES.—The amount of incentives provided to quality assurance providers or rebate aggregators shall be—

(A)(i) in the case of the Silver Star Home Energy Retrofit Program—

(I) $25 per rebate review and submission provided under the program; and

(II) $150 for each field inspection conducted under the program; and

(ii) in the case of the Gold Star Home Energy Retrofit Program—

(I) $35 for each rebate review and submission provided under the program; and

(II) $300 for each field inspection conducted under the program; or

(B) such other amounts as the Secretary considers necessary to carry out the quality assurance provisions of this title.

(d) TRACKING OF REBATES AND EXPENDITURES.—Of the amount provided under subsection (a), not more than $150,000,000 shall be used for costs associated with database systems to track rebates and expenditures under this title and related administrative costs incurred by the Secretary.

(e) PUBLIC EDUCATION AND COORDINATION.—Of the amount provided under subsection (a), not more than $10,000,000 shall be used for costs associated with public education and coordination with the Federal Energy Star program incurred by the Administrator.

(f) INDIAN TRIBES.—Of the amount provided under subsection (a), the Secretary shall reserve not more than 3 percent to make grants available to Indian tribes under this section.

(g) SILVER STAR HOME ENERGY RETROFIT PROGRAM.—

(1) IN GENERAL.—In the case of the Silver Star Home Energy Retrofit Program, of the amount provided under subsection (a) after funds are provided in accordance with subsections (b) through (e), $2,751,000,000 for the 1-year period beginning on the date of enactment of this Act (less any amounts required under subsection (f)) shall be used by the Secretary to provide rebates and incentives authorized under the Silver Star Home Energy Retrofit Program.

(2) PRODUCTS PURCHASED WITHOUT INSTALLATION SERVICES.—Of the amounts made available for the Silver Star Home Energy Retrofit Program under this section, not more than $250,000,000 shall be made available for rebates under section 106(e).

(h) GOLD STAR HOME ENERGY RETROFIT PROGRAM.—In the case of the Gold Star Home Energy Retrofit Program, of the amount provided under subsection (a) after funds are provided in accordance with subsections (b) through (e), $1,349,000,000 for the 2-year period beginning on the date of enactment of this Act (less any amounts required under subsection (f)) shall be used by the Secretary to provide rebates and incentives authorized under the Gold Star Home Energy Retrofit Program.

(i) PROGRAM REVIEW AND BACKSTOP FUNDING.—

(1) REVIEW AND ANALYSIS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall perform a State-by-State analysis and review the distribution of Home Star retrofit rebates under this title.

(B) RENTAL UNITS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall perform a review and analysis, with input and review from the Secretary of Housing and Urban Development, of the procedures for delivery of services to rental units.

(2) ADJUSTMENT.—The Secretary may allocate technical assistance funding to assist States that, as determined by the Secretary—

(A) have not sufficiently benefitted from the Home Star Retrofit Rebate Program; or

(B) in which rental units have not been adequately served.

(j) RETURN OF UNDISBURSED FUNDS.—

(1) SILVER STAR HOME ENERGY RETROFIT PROGRAM.—If the Secretary has not disbursed all the funds available for rebates under the Silver Star Home Energy Retrofit Program by the date that is 1 year after the date of enactment of this Act, any undisbursed funds shall be made available to the Gold Star Home Energy Retrofit Program.

(2) GOLD STAR HOME ENERGY RETROFIT PROGRAM.—If the Secretary has not disbursed all the funds available for rebates under the Gold Star Home Energy Retrofit Program by the date that is 2 years after the date of enactment of this Act, any undisbursed funds shall be returned to the Treasury.

(k) FINANCING.—Of the amounts allocated to the States under subsection (b), not less than $200,000,000 shall be used to carry out the financing provisions of this title in accordance with section 114.

TITLE II—PERFORMANCE BASED ENERGY IMPROVEMENT TAX CREDITS

SEC. 201. PERFORMANCE BASED ENERGY IMPROVEMENTS FOR NONBUSINESS PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

''SEC. 25E. PERFORMANCE BASED ENERGY IMPROVEMENTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount of qualified home energy efficiency expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The amount of the credit allowed under subsection (a) with respect to any individual for any taxable year shall not exceed the amount determined under subparagraph (B) with respect to the principal residence of such individual.

''(B) AMOUNT DETERMINED.—

''(i) IN GENERAL.—Subject to clause (iv), the amount determined under this subparagraph is the base amount increased by the amount determined under clause (iii).

''(ii) BASE AMOUNT.—For purposes of this subparagraph, the base amount is—

''(I) $3,000, in the case of a residence the construction of which is completed before January 1, 2000, and

''(II) $2,000, in the case of a residence the construction of which is completed after December 31, 1999.

''(iii) INCREASE AMOUNT.—The amount determined under this clause is—

''(I) in the case of a residence described in clause (ii)(I) which has a rating system score equal to the rating system score which corresponds to the IECC Standard Reference Design for a home of the size and in the climate zone of such residence, $1,000, and

''(II) in the case of any residence with a rating system score which is lower than that which corresponds to such IECC Standard Reference Design by not less than 5 points, $500 for each 5 points by which the rating system score which corresponds to such IECC Standard Reference Design exceeds the rating system score of such residence (in addition to the amount provided under clause (i), if applicable).

''(iv) LIMITATION.—In no event shall the amount determined under this subparagraph exceed $8,000 with respect to any individual.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of taxable years to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and sections 23, 24, and 25B) and section 27 for the taxable year.

''(c) QUALIFIED HOME ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified home energy efficiency expenditures' means any amount paid or incurred for a qualified whole home energy efficiency retrofit, including the cost of audit diagnostic procedures, of a principal residence of the taxpayer which is located in the United States.

''(2) QUALIFIED WHOLE HOME ENERGY EFFICIENCY RETROFIT.—

''(A) IN GENERAL.—The term 'qualified whole home energy efficiency retrofit' means a retrofit of an existing residence if, after such retrofit, such residence—

''(i) has a rating system score of not greater than—

''(I) 100, determined under the HERS Index, in the case of a residence the construction of which is completed before January 1, 2000, and

''(II) the rating system score which corresponds to the IECC Standard Reference Design for a home of the size and in the climate zone of such residence, in the case of a residence the construction of which is completed after December 31, 1999, or

''(ii) achieves a degree of energy efficiency improvement which is equivalent to the standard applicable to such residence under clause (i), as determined by the Secretary.

For purposes of the preceding sentence, the HERS Index is the HERS Index established by the Residential Energy Services Network, as in effect on January 1, 2011.

''(B) ACCREDITATION RULE.—A retrofit shall not be treated as a qualified whole home energy efficiency retrofit unless such retrofit is conducted by a company which is accredited by the Building Performance Institute, or which fulfills an equivalent standard as determined by the Secretary.

''(C) DETERMINATION OF RATING SYSTEM SCORE OR EQUIVALENT.—

''(i) IN GENERAL.—Subject to clause (ii), the rating system score of a residence, or the equivalent described in subparagraph (A)(ii), shall be determined by an auditor or rater certified by the Residential Energy Services Network or the Building Performance Institute.

''(ii) SECRETARIAL DETERMINATION.—At the discretion of the Secretary, the Secretary may, in consultation with the Secretary of Energy, determine an alternative standard for certification of an auditor or rater for purposes of determining the rating system score (or equivalent described in subparagraph (A)(ii)) of a residence. If the Secretary establishes such an alternative standard, clause (i) shall cease to apply unless the Secretary determines otherwise.

''(D) REGULATIONS.—Not later than December 31, 2011, in consultation with the Secretary, the Secretary of Energy shall prescribe regulations which specify the costs with respect to energy improvements which may be taken into account under this paragraph as part of a qualified whole home energy efficiency retrofit.

''(3) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—No credit shall be allowed under this section for any taxable year in which the taxpayer elects the credit under section 25C.

''(B) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term 'qualified home energy efficiency expenditures' shall not include any expenditure for which a deduction or credit is otherwise allowed to the taxpayer under this chapter for the taxable year or with respect to which the taxpayer receives any Federal rebate.

''(4) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121, except that—

''(A) no ownership requirement shall be imposed, and

''(B) the period for which a building is treated as used as a principal residence shall also include the 60-day period ending on the 1st day on which it would (but for this subparagraph) first be treated as used as a principal residence.

''(d) RATING SYSTEM SCORE.—For purposes of this section—

''(1) IN GENERAL.—Subject to paragraph (2), the rating system score shall be the score assigned under the HERS Index established by the Residential Energy Services Network.

''(2) SECRETARIAL DETERMINATION.—At the discretion of the Secretary, the Secretary may, in consultation with the Secretary of Energy, determine an alternative rating system (including an alternative system based on the HERS Index established by the Residential Energy Services Network). If the Secretary establishes such an alternative rating system, the rating system score with respect to any residence shall be the score assigned under such alternative rating system.

''(e) IECC STANDARD REFERENCE DESIGN.—

''(1) IN GENERAL.—The term 'IECC Standard Reference Design' means the Standard Reference Design determined under the International Energy Conservation Code in effect for the taxable year in which the credit under this section is determined.

''(2) LIMITATION TO RESIDENCES CONSTRUCTED AFTER EFFECTIVE DATE OF MOST RECENT CODE.—No credit shall be allowed under this section with respect to a principal residence the construction of which is completed after the effective date of the International Energy Conservation Code in effect for the taxable year for which such credit would otherwise be determined.

''(f) SPECIAL RULES.—For purposes of this section, rules similar to the rules under paragraphs (4), (5), (6), (7), and (8) of section 25D(e) and section 25C(e)(2) shall apply.

''(g) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

''(i) TERMINATION.—This section shall not apply with respect to any costs paid or incurred after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 26(a)(1) of the Internal Revenue Code of 1986 is amended by inserting ''25E,'' after ''25D''.

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 25E(g).''.

(3) Section 6501(m) of such Code is amended by inserting ''25E(h),'' after ''section''.

(4) The table of sections for subpart A of part IV of subchapter A chapter 1 of such Code is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Performance based energy improvements.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2010.

By Mr. REID. (for himself, Mr. ENSIGN, Mr. HARKIN, Mr. TESTER, Mr. BENNET, and Ms. KLOBUCHAR):

S. 3438. A bill to promote clean energy infrastructure for rural communities; to the Committee on Finance.

Mr. REID. Mr. President, in 1935, President Franklin Delano Roosevelt signed the Rural Electrification Act to bring electricity to the sparsely-populated rural areas of our vast Nation. Today, with advances in renewable energy from the sun, the wind, water, and geothermal energy beneath the Earth's surface, our rural communities are ready to produce clean, renewable electricity and sell it to cities and towns. Just as our national highway system grew out of the network of farm roads to bring agricultural products to market, our electric transmission system needs connections to rural areas to bring our abundant rural renewable energy resources to load centers. For example, Nye and Lincoln counties in Nevada have the potential to generate more solar and wind energy than their small populations can use. Without transmission to connect these rural areas to load centers, they cannot fully develop their local renewable energy industry and are losing out on important opportunities to create jobs and diversify their economies.

That is why I am introducing two bills today to give rural communities more options to finance the clean energy infrastructure we need to develop our rich renewable resources. These two bills would help rural communities fund clean energy infrastructure, which will create many short and long term jobs and attract badly needed investment in rural Nevada's struggling economy. While Nevada is in an especially good position to benefit from this bill, I am pleased to be joined by Senators ENSIGN, HARKIN, TESTER, MICHAEL BENNET, and KLOBUCHAR whose states also have renewable energy resources stranded by a lack of transmission.

Existing government loan and tax-exempt bond programs are available to finance rural renewable generation, but not to finance the connections between that generation and the high-voltage

transmission system that carries electricity to load centers. These proposed bills would provide three ways to finance important transmission for rural renewable generators—through the USDA Rural Utilities Service, through modifications to the Clean Renewable Energy Bond, CREB, program, and through modifications to the Exempt Facility Bonds program.

As we have seen with the electric and telephone infrastructure financed by the USDA Rural Utilities Service since 1935, energy infrastructure is crucial to economic development for rural communities. Natural gas pipelines crisscross rural communities, but small towns near these pipelines lack natural gas today. Some of these towns, including some in Nevada, have plans for natural gas distribution systems and local economic development that depend on access to natural gas. Federal programs to provide loans, loan guarantees, or tax-exempt bonds do not fit these plans.

The USDA does not currently finance these types of projects. My bill would allow the USDA to finance natural gas systems to connect rural communities to natural gas pipelines. Access to natural gas will provide these communities with a clean, efficient energy source, and encourage economic development.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3438

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Transmission for Rural Communities Act of 2010''.

SEC. 2. TRANSMISSION FOR RENEWABLES.

(a) CLARIFICATION OF QUALIFIED FACILITIES FOR CLEAN RENEWABLE ENERGY BONDS.—

(1) IN GENERAL.—Section 54C(d)(1) of the Internal Revenue Code of 1986 is amended by inserting '', or a facility primarily for the purpose of interconnecting one or more such qualified facilities to a high-voltage transmission line'' after ''electric company''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after the date of enactment of this Act.

(b) TAX-EXEMPT FINANCING OF CERTAIN ELECTRIC TRANSMISSION FACILITIES.—

(1) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 is amended—

(A) by striking ''or'' at the end of paragraph (14),

(B) by striking the period at the end of paragraph (15) and inserting '', or'', and

(C) by adding at the end the following new paragraph:

''(16) qualified electric transmission facilities.''.

(2) DEFINITION.—Section 142 of such Code is amended by adding at the end the following new subsection:

''(n) QUALIFIED ELECTRIC TRANSMISSION FACILITIES.—

''(1) IN GENERAL.—For purposes of subsection (a)(16), the term 'qualified electric transmission facility' means any electric transmission facility which is—

''(A) owned by—

''(i) a State or political subdivision of a State, or any agency, authority, or instrumentality of any of the foregoing, providing electric service, directly or indirectly to the public, or

''(ii) a State or political subdivision of a State expressly authorized under State law to finance and own electric transmission facilities; and

''(B) primarily for the purpose of interconnecting one or more renewable energy facilities to a high-voltage transmission line.

''(2) TERMINATION.—Subsection (a)(16) shall not apply with respect to any bond issued after December 31, 2011.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to bonds issued after the date of enactment of this Act.

By Mr. REID (for himself, Mr. ENSIGN, Mr. HARKIN, Mr. TESTER, Mr. BENNET, and Ms. KLOBUCHAR):

S. 3439. A bill to promote clean energy infrastructure for rural communities; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3439

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Energy Infrastructure for Rural Communities Act of 2010''.

SEC. 2. ELECTRIC LOANS FOR RENEWABLE ENERGY.

Section 317 of the Rural Electrification Act of 1936 (7 U.S.C. 940g) is amended—

(1) in subsection (b)—

(A) by striking ''for electric generation'' and inserting ''for—

''(1) electric generation'';

(B) by striking the period at the end and inserting''; and''; and

(C) by adding at the end the following:

''(2) transmission facilities primarily for the purpose of interconnecting one or more renewable energy facilities to a high-voltage transmission line.''; and

(2) by striking subsection (c).

SEC. 3. RURAL NATURAL GAS INFRASTRUCTURE.

Section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

''(B) NATURAL GAS.—The term 'natural gas' means —

''(i) unmixed natural gas; or

''(ii) any mixture of natural and artificial gas.''; and

(2) in paragraph (2)—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following:

''(D) improving the economic and environmental climate by encouraging the development and construction of infrastructure to provide access to natural gas in rural communities; and''.

By Mr. GRASSLEY:

S. 3440. A bill to amend the Internal Revenue Code of 1986 to extend the incentives for biodiesel and renewable diesel; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3440

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Emergency Biodiesel Tax Incentive Extension Act of 2010''.

SEC. 2. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) Subparagraph (B) of section 6427(e)(6) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

By Mr. DURBIN (himself and Mr. GREGG):

S. 3441. A bill to provide high-quality public charter school options for students by enabling such public charter schools to expand and replicate; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I rise today to introduce legislation designed to improve educational opportunities for struggling students. The All Students Achieving Through Reform Act, or All-STAR Act, would provide Federal resources to the most successful charter schools to help them grow and replicate.

Last week, I visited the KIPP Ascend Charter School in Chicago. You might have heard of the KIPP charter schools. The first KIPP school was founded in Texas by two Teach for America teachers. Mike Feinberg and Dave Levin wanted to start a school that would inspire high achievement for students living in disadvantaged communities. The 82 KIPP schools nationwide focus on high expectations, an intense academic curriculum, expanded school days and years, parental involvement, and high quality teachers. The results are impressive. While less than one in five low-income students attends college nationally, KIPP's college matriculation rate stands at more than 85 percent for students who complete the 8th grade at KIPP. More than 90 percent of KIPP alumni go on to college-preparatory high schools. Collectively, they have earned millions of

dollars in scholarships and financial aid since 2000.

I saw this success when I visited Chicago's KIPP school. Students at KIPP Ascend are actively engaged in learning and their teachers are energetic and inspiring. The students there are outscoring their peers in other Chicago Public Schools, and 100 percent of the 8th graders who have graduated from KIPP Ascend have been accepted to college-preparatory high schools.

Right now there is only one KIPP school in Chicago, but there should be more. The bill I am introducing today with Senator GREGG would help make that possible. Currently, federal funding for charter schools can only be used to create new schools, not expand or replicate existing schools. My bill would create new grants within the existing charter school program to fund the expansion and replication of the most successful charter schools. Schools in Chicago, like KIPP and Noble Street, that have achieved amazing results with their students will be able to apply for federal grants to expand their schools to additional grades or replicate the model to a new school. Successful charters across the country will be able to grow more easily, providing better educational opportunities to thousands of students.

The bill also incentivizes the adoption of strong charter school policies by states. We know that successful charter schools thrive when they have autonomy, freedom to grow, and strong accountability based on meeting performance targets. The bill would give grant priority to States that provide that environment. The bill also requires new levels of charter school authorizer reporting and accountability to ensure that good charter schools are able to succeed while bad charter schools are improved or shut down.

This bill will improve educational opportunities for students across the Nation. Charter schools represent some of the brightest spots in urban education today, and successful models have the full support of the President and Secretary Duncan. We need to help these schools grow and bring their best lessons into our regular public schools so that all students can benefit. This bill has the support of more than 25 education organizations including some of the Nation's highest performing charter networks like KIPP and Green Dot. Supporting the growth of successful charter schools should be a part of the conversation when we take up reauthorization of the Elementary and Secondary Education Act. I thank Senator GREGG and Representative POLIS in the House for joining me in this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3441

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''All Students Achieving through Reform Act of 2010'' or ''All-STAR Act of 2010''.

SEC. 2. CHARTER SCHOOL EXPANSION AND REPLICATION.

(a) IN GENERAL.—Subpart 1 of part B of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221 et seq.) is amended—

(1) by striking section 5212;

(2) by redesignating section 5210 as section 5211; and

(3) by inserting after section 5209 the following:

''SEC. 5210. CHARTER SCHOOL EXPANSION AND REPLICATION.

''(a) PURPOSE.—It is the purpose of this section to support State efforts to expand and replicate high-quality public charter schools to enable such schools to serve additional students, with a priority to serve those students who attend identified schools or schools with a low graduation rate.

''(b) SUPPORT FOR PROVEN CHARTER SCHOOLS AND INCREASING THE SUPPLY OF HIGH-QUALITY CHARTER SCHOOLS.—

''(1) GRANTS AUTHORIZED.—From the amounts appropriated under section 5200 for any fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to make subgrants to eligible public charter schools under subsection (e)(1) and carry out the other activities described in subsection (e), in order to allow the eligible public charter schools to serve additional students through the expansion and replication of such schools.

''(2) AMOUNT OF GRANTS.—In determining the grant amount to be awarded under this subsection to an eligible entity, the Secretary shall consider—

''(A) the number of eligible public charter schools under the jurisdiction or in the service area of the eligible entity that are operating;

''(B) the number of openings for new students that could be created in such schools with such grant;

''(C) the number of students eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) who are on waiting lists for charter schools under the jurisdiction or in the service area of the eligible entity, and other information with respect to charter schools in such jurisdiction or the service area that suggest the interest of parents in charter school enrollment for their children;

''(D) the number of students attending identified schools or schools with a low graduation rate in the State or area where an eligible entity intends to replicate or expand eligible public charter schools; and

''(E) the success of the eligible entity in overseeing public charter schools and the likelihood of continued or increased success because of the grant under this section.

''(3) DURATION OF GRANTS.—A grant under this section shall be for a period of not more than 5 years, except that an eligible entity receiving such grant may, at the discretion of the Secretary, continue to expend grant funds after the end of the grant period.

''(c) APPLICATION REQUIREMENTS.—

''(1) APPLICATION REQUIREMENTS.—To be considered for a grant under this section, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) CONTENTS.—The application described in paragraph (1) shall include, at a minimum, the following:

''(A) RECORD OF SUCCESS.—Documentation of the record of success of the eligible entity in overseeing or operating public charter schools, including—

''(i) the performance of public charter school students on the academic assessments described in section 1111(b)(3) of the State where such schools are located, disaggregated by—

''(I) economic disadvantage;

''(II) race and ethnicity;

''(III) disability status; and

''(IV) status as a student with limited English proficiency;

''(ii) the status of such schools under section 1116 in making adequate yearly progress or as identified schools; and

''(iii) in the case of public charter schools that are secondary schools, the graduation rates and rates of college acceptance, enrollment, and persistence of students, where possible.

''(B) PLAN.—A plan for—

''(i) replicating and expanding eligible public charter schools operated or overseen by the eligible entity;

''(ii) identifying eligible public charter schools, or networks of eligible public charter schools, to receive subgrants under this section;

''(iii) increasing the number of openings in eligible public charter schools for students attending identified schools and schools with a low graduation rate;

''(iv) ensuring that eligible public charter schools receiving a subgrant under this section enroll students through a random lottery for admission, unless the charter school is using the subgrant to expand the school to serve additional grades, in which case such school may reserve seats in the additional grades for—

''(I) each student enrolled in the grade preceding each such additional grade;

''(II) siblings of students enrolled in the charter school, if such siblings desire to enroll in such grade; and

''(III) children of the charter school's founders, staff, or employees;

''(v)(I) in the case of an eligible entity described in subparagraph (A) or (C) of subsection (k)(4), the manner in which the eligible entity will work with identified schools and schools with a low graduation rate that are eligible to enroll students in a public charter school receiving a subgrant under this section and that are under the eligible entity's jurisdiction, and the local educational agencies serving such schools, to—

''(aa) engage in community outreach, provide information in a language that the parents can understand, and communicate with parents of students at identified schools and schools with a low graduation rate who are eligible to attend a public charter school receiving a subgrant under this section about the opportunity to enroll in or transfer to such school, in a manner consistent with section 444 of the General Education Provisions Act (commonly known as the 'Family Educational Rights and Privacy Act of 1974'); and

''(bb) ensure that a student can transfer to an eligible public charter school if the public charter school such student was attending in the previous school year is no longer an eligible public charter school; and

''(II) in the case of an eligible entity described in subparagraph (B) or (D) of subsection (k)(4), the manner in which the eligible entity will work with the local educational agency to carry out the activities described in items (aa) and (bb) of subclause (I); and

''(vi) disseminating to public schools under the jurisdiction or in the service area of the eligible entity, in a manner consistent with section 444 of the General Education Provisions Act (commonly known as the 'Family Educational Rights and Privacy Act of 1974'),

the best practices, programs, or strategies learned by awarding subgrants to eligible public charter schools under this section, with particular emphasis on the best practices with respect to—

''(I) focusing on closing the achievement gap; or

''(II) successfully addressing the education needs of low-income students.

''(C) CHARTER SCHOOL INFORMATION.—The number of—

''(i) eligible public charter schools that are operating in the State in which the eligible entity intends to award subgrants under this section;

''(ii) public charter schools approved to open or likely to open during the grant period in such State;

''(iii) available openings in eligible public charter schools in such State that could be created through the replication or expansion of such schools if the grant is awarded to the eligible entity;

''(iv) students on public charter school waiting lists (if such lists are available) in—

''(I) the State in which the eligible entity intends to award subgrants under this section; and

''(II) each local educational agency serving an eligible public charter school that may receive a subgrant under this section from the eligible entity; and

''(v) students, and the percentage of students, in a local educational agency who are attending eligible public charter schools that may receive a subgrant under this section from the eligible entity.

''(D) TRADITIONAL PUBLIC SCHOOL INFORMATION.—In the case of an eligible entity that is a State educational agency or local educational agency, a list of the following schools under the jurisdiction of the eligible entity, including the name and location of each such school, the number and percentage of students under the jurisdiction of the eligible entity who are attending such school, and such demographic and socioeconomic information as the Secretary may require:

''(i) Identified schools.

''(ii) Schools with a low graduation rate.

''(E) ASSURANCE.—In the case of an eligible entity described in subsection (k)(4)(A), an assurance that the eligible entity will include in the notifications provided under section 1116(c)(6) to parents of each student enrolled in a school served by a local educational agency identified for school improvement or corrective action under paragraph (1) or (7) of section 1116(c), information (in a language that the parents can understand) about the eligible public charter schools receiving subgrants under this section.

''(d) PRIORITIES FOR AWARDING GRANTS.—

''(1) IN GENERAL.—In awarding grants under this section, the Secretary shall give priority to an eligible entity that—

''(A) serves or plans to serve a large percentage of low-income students from identified schools or public schools with a low graduation rate;

''(B) oversees or plans to oversee one or more eligible public charter schools;

''(C) provides evidence of effective monitoring of the academic success of students who attend public charter schools under the jurisdiction of the eligible entity;

''(D) in the case of an eligible entity that is a local educational agency under State law, has a cooperative agreement under section 1116(b)(11); and

''(E) is under the jurisdiction of, or plans to award subgrants under this section in, a State that—

''(i) ensures that all public charter schools (including such schools served by a local educational agency and such schools considered to be a local educational agency under State law) receive, in a timely manner, the Federal, State, and local funds to which such schools are entitled under applicable law;

''(ii) does not have a cap that restricts the growth of public charter schools in the State;

''(iii) provides funding (such as capital aid distributed through a formula or access to revenue generated bonds, and including funding for school facilities) on a per-pupil basis to public charter schools commensurate with the amount of funding (including funding for school facilities) provided to traditional public schools;

''(iv) provides strong evidence of support for public charter schools and has in place innovative policies that support academically successful charter school growth;

''(v) authorizes public charter schools to offer early childhood education programs, including prekindergarten, in accordance with State law;

''(vi) ensures that each public charter school in the State—

''(I) has a high degree of autonomy over the public charter school's budget and expenditures;

''(II) has a written performance contract with an authorized public chartering agency that ensures that the school has an independent governing board with a high degree of autonomy; and

''(III) in the case of an eligible public charter school receiving a subgrant under this section, amends its charter to reflect the growth activities described in subsection (e);

''(vii) has an appeals process for the denial of an application for a charter school;

''(viii) provides that an authorized public chartering agency that is not a local educational agency, such as a State chartering board, is available for each individual or entity seeking to operate a charter school pursuant to such State law;

''(ix) allows any public charter school to be a local educational agency in accordance with State law;

''(x) ensures that each authorized public chartering agency in the State submits annual reports to the State educational agency, and makes such reports available to the public, on the performance of the schools authorized or approved by such public chartering agency, which reports shall include—

''(I) the authorized public chartering agency's strategic plan for authorizing or approving public charter schools and any progress toward achieving the objectives of the strategic plan;

''(II) the authorized public chartering agency's policies for authorizing or approving public charter schools, including how such policies examine a school's—

''(aa) financial plan and policies, including financial controls and audit requirements;

''(bb) plan for identifying and successfully (in compliance with all applicable laws and regulations) serving students with disabilities, students who are English language learners, students who are academically behind their peers, and gifted students; and

''(cc) capacity and capability to successfully launch and subsequently operate a public charter school, including the backgrounds of the individuals applying to the agency to operate such school and any record of such individuals operating a school;

''(III) the authorized public chartering agency's policies for renewing, not renewing, and revoking a charter school's charter, including the role of student academic achievement in such decisions;

''(IV) the authorized public chartering agency's transparent, timely, and effective process for closing down academically unsuccessful public charter schools;

''(V) the academic performance of each operating public charter school authorized or approved by the authorized public chartering agency, including the information reported by the State in the State annual report card under section 1111(h)(1)(C) for such school;

''(VI) the status of the authorized public chartering agency's charter school portfolio, by identifying all charter schools served by the public chartering agency in each of the following categories: approved (but not yet open), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;

''(VII) the authorizing functions (such as approval, monitoring, and oversight) performed by the authorized public chartering agency to the public charter schools authorized or approved by such agency, including an itemized accounting of the actual costs of such functions; and

''(VIII) the services purchased (such as accounting, transportation, and data management and analysis) from the authorized public chartering agency by the public charter schools authorized or approved by such agency, including an itemized accounting of the actual costs of such services; and

''(xi) has or will have (within 1 year after receiving a grant under this section) a State policy and process for overseeing and reviewing the effectiveness and quality of the State's authorized public chartering agencies, including—

''(I) a process for reviewing and evaluating the performance of the authorized public chartering agencies in authorizing or approving charter schools, including a process that enables the authorized public chartering agencies to respond to any State concerns; and

''(II) any other necessary policies to ensure effective charter school authorizing in the State in accordance with the principles of quality charter school authorizing, as determined by the State in consultation with the charter school community and stakeholders.

''(2) SPECIAL RULE.—In awarding grants under this section, the Secretary may determine how the priorities described in paragraph (1) will apply to the different types of eligible entities defined in subsection (k)(4).

''(e) USE OF FUNDS.—An eligible entity receiving a grant under this section shall use the grant funds for the following:

''(1) SUBGRANTS.—

''(A) IN GENERAL.—To award subgrants, in such amount as the eligible entity determines is appropriate, to eligible public charter schools to replicate or expand such schools.

''(B) APPLICATION.—An eligible public charter school desiring to receive a subgrant under this subsection shall submit an application to the eligible entity at such time, in such manner, and containing such information as the eligible entity may require.

''(C) USES OF FUNDS.—An eligible public charter school receiving a subgrant under this subsection shall use the subgrant funds to provide for an increase in the school's enrollment of students through the replication or expansion of the school, which may include use of funds to—

''(i) support the physical expansion of school buildings, including financing the development of new buildings and campuses to meet increased enrollment needs;

''(ii) pay costs associated with hiring additional teachers to serve additional students;

''(iii) provide transportation to additional students to and from the school, including providing transportation to students who transfer to the school under a cooperative agreement established under section 1116(b)(11);

''(iv) purchase instructional materials, implement teacher and principal professional development programs, and hire additional non-teaching staff; and

''(v) support any necessary activities associated with the school carrying out the purposes of this section.

''(D) PRIORITY.—In awarding subgrants under this subsection, an eligible entity shall give priority to an eligible public charter school—

''(i) that has significantly closed any achievement gap on the State academic assessments described in section 1111(b)(3) among the groups of students described in section 1111(b)(2)(C)(v) by improving scores;

''(ii) that—

''(I)(aa) ranks in at least the top 25th percentile of the schools in the State, as ranked by the percentage of students in the proficient or advanced level of achievement on the State academic assessments in mathematics and reading or language arts described in section 1111(b)(3); or

''(bb) has an average student score on an examination (chosen by the Secretary) that is at least in the 60th percentile in reading and at least in the 75th percentile in mathematics; and

''(II) serves a high-need student population and is eligible to participate in a schoolwide program under section 1114, with additional priority given to schools that serve, as compared to other schools that have submitted an application under this subsection—

''(aa) a greater percentage of low-income students; and

''(bb) a greater percentage of not less than 2 groups of students described in section 1111(b)(2)(C)(v)(II); and

''(iii) that meets the criteria described in clause (i) and serves low-income students who have transferred to such school under a cooperative agreement described in section 1116(b)(11).

''(E) DURATION OF SUBGRANT.—A subgrant under this subsection shall be awarded for a period of not more than 5 years, except that an eligible public charter school receiving a subgrant under this subsection may, at the discretion of the eligible entity, continue to expend subgrant funds after the end of the subgrant period.

''(2) FACILITY FINANCING AND REVOLVING LOAN FUND.—An eligible entity may use not more than 25 percent of the amount of the grant funds received under this section to establish a reserve account described in subsection (f) to facilitate public charter school facility acquisition and development by—

''(A) conducting credit enhancement initiatives (as referred to in subpart 2) in support of the development of facilities for eligible public charter schools serving students;

''(B) establishing a revolving loan fund for use by an eligible public charter school receiving a subgrant under this subsection from the eligible entity under such terms as may be determined by the eligible entity to allow such school to expand to serve additional students;

''(C) facilitating, through direct expenditure or financing, the acquisition or development of public charter school buildings by the eligible entity or an eligible public charter school receiving a subgrant under this subsection from the eligible entity, which may be used as both permanent locations for eligible public charter schools or incubators for growing charter schools; or

''(D) establishing a partnership with 1 or more community development financial institutions (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)) or other mission-based financial institutions to carry out the activities described in subparagraphs (A), (B), and (C).

''(3) ADMINISTRATIVE TASKS, DISSEMINATION ACTIVITIES, AND OUTREACH.—

''(A) IN GENERAL.—An eligible entity may use not more than 7.5 percent of the grant funds awarded under this section to cover administrative tasks, dissemination activities, and outreach.

''(B) NONPROFIT ASSISTANCE.—In carrying out the administrative tasks, dissemination activities, and outreach described in subparagraph (A), an eligible entity may contract with an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code (26 U.S.C. 501(a)).

''(f) RESERVE ACCOUNT.—

''(1) IN GENERAL.—To assist eligible entities in the development of new public charter school buildings or facilities for eligible public charter schools, an eligible entity receiving a grant under this section may, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the amount of funds described in subsection (e)(2) in a reserve account established and maintained by the eligible entity.

''(2) INVESTMENT.—Funds received under this section and deposited in the reserve account established under this subsection shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

''(3) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this subsection shall be deposited in the reserve account established under this section and used in accordance with the purpose described in subsection (a).

''(4) RECOVERY OF FUNDS.—

''(A) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

''(i) all funds in a reserve account established by an eligible entity under this subsection if the Secretary determines, not earlier than 2 years after the date the eligible entity first received funds under this section, that the eligible entity has failed to make substantial progress carrying out the purpose described in paragraph (1); or

''(ii) all or a portion of the funds in a reserve account established by an eligible entity under this subsection if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of funds in such account to accomplish the purpose described in paragraph (1).

''(B) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided under subparagraph (A) to collect from any eligible entity any funds that are being properly used to achieve such purpose.

''(C) PROCEDURES.—Sections 451, 452, and 458 of the General Education Provisions Act shall apply to the recovery of funds under subparagraph (A).

''(D) CONSTRUCTION.—This paragraph shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act.

''(5) REALLOCATION.—Any funds collected by the Secretary under paragraph (4) shall be awarded to eligible entities receiving grants under this section in the next fiscal year.

''(g) FINANCIAL RESPONSIBILITY.—The financial records of each eligible entity and eligible public charter school receiving a grant or subgrant, respectively, under this section shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

''(h) NATIONAL EVALUATION.—

''(1) NATIONAL EVALUATION.—From the amounts appropriated under section 5200, the Secretary shall conduct an independent, comprehensive, and scientifically sound evaluation, by grant or contract and using the highest quality research design available, of the impact of the activities carried out under this section on—

''(A) student achievement; and

''(B) other areas, as determined by the Secretary.

''(2) REPORT.—Not later than 4 years after the date of the enactment of the All Students Achieving through Reform Act of 2010, and biannually thereafter, the Secretary shall submit to Congress a report on the results of the evaluation described in paragraph (1).

''(i) REPORTS.—Each eligible entity receiving a grant under this section shall prepare and submit to the Secretary the following:

''(1) REPORT.—A report that contains such information as the Secretary may require concerning use of the grant funds by the eligible entity, including the academic achievement of the students attending eligible public charter schools as a result of the grant. Such report shall be submitted before the end of the 4-year period beginning on the date of enactment of the All Students Achieving through Reform Act of 2010 and every 2 years thereafter.

''(2) PERFORMANCE INFORMATION.—Such performance information as the Secretary may require for the national evaluation conducted under subsection (h)(1).

''(j) INAPPLICABILITY.—The provisions of sections 5201 through 5209 shall not apply to the program under this section.

''(k) DEFINITIONS.—In this section:

''(1) ADEQUATE YEARLY PROGRESS.—The term 'adequate yearly progress' has the meaning given such term in a State's plan in accordance with section 1111(b)(2)(C).

''(2) ADMINISTRATIVE TASKS, DISSEMINATION ACTIVITIES, AND OUTREACH.—The term 'administrative tasks, dissemination activities, and outreach' includes costs and activities associated with—

''(A) recruiting and selecting students to attend eligible public charter schools;

''(B) outreach to parents of students enrolled in identified schools or schools with low graduation rates;

''(C) providing information to such parents and school officials at such schools regarding eligible public charter schools receiving subgrants under this section;

''(D) necessary oversight of the grant program under this section; and

''(E) initiatives and activities to disseminate the best practices, programs, or strategies learned in eligible public charter schools to other public schools operating in the State where the eligible entity intends to award subgrants under this section.

''(3) CHARTER SCHOOL.—The term 'charter school' means—

''(A) a charter school, as defined in section 5211(1); or

''(B) a school that meets the requirements of such section, except for subparagraph (D), and provides prekindergarten or adult education services.

''(4) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) a State educational agency;

''(B) an authorized public chartering agency;

''(C) a local educational agency that has authorized or is planning to authorize a public charter school; or

''(D) an organization that has an organizational mission and record of success supporting the replication and expansion of high-quality charter schools and is—

''(i) described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)); and

''(ii) exempt from tax under section 501(a) of such Code (26 U.S.C. 501(a)).

''(5) ELIGIBLE PUBLIC CHARTER SCHOOL.—The term 'eligible public charter school' means a charter school, including a public charter

school that is being developed by a developer, that—

''(A) has made adequate yearly progress for the last 2 consecutive school years; and

''(B) in the case of a public charter school that is a secondary school, has, for the most recent school year for which data is available, met or exceeded the graduation rate required by the State in order to make adequate yearly progress for such year.

''(6) IDENTIFIED SCHOOL.—The term 'identified school' means a school identified for school improvement, corrective action, or restructuring under paragraph (1), (7), or (8) of section 1116(b).

''(7) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' includes any charter school that is a local educational agency, as determined by State law.

''(8) LOW-INCOME STUDENT.—The term 'low-income student' means a student eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(9) GRADUATION RATE.—The term 'graduation rate' has the meaning given the term in section 1111(b)(2)(C)(vi), as clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations.

''(10) SCHOOL YEAR.—The term 'school year' has the meaning given such term in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)).

''(11) TRADITIONAL PUBLIC SCHOOL.—The term 'traditional public school' does not include any charter school, as defined in section 5211.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Part B of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221 et seq.) is amended—

(1) by striking section 5231; and

(2) by inserting before subpart 1 the following:

''SEC. 5200. AUTHORIZATION OF APPROPRIATIONS FOR SUBPARTS 1 AND 2.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out subparts 1 and 2, $700,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 5 succeeding fiscal years.

''(b) ALLOCATION.—In allocating funds appropriated under this section for any fiscal year, the Secretary shall consider—

''(1) the relative need among the programs carried out under sections 5202, 5205, 5210, and subpart 2; and

''(2) the quality of the applications submitted for such programs.''.

(c) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 2102(2) (20 U.S.C. 6602(2)), by striking ''5210'' and inserting ''5211'';

(2) in section 5204(e) (20 U.S.C. 7221c(e)), by striking ''5210(1)'' and inserting ''5211(1)'';

(3) in section 5211(1) (as redesignated by subsection (a)(1)) (20 U.S.C. 7221i(1)), by striking ''The term'' and inserting ''Except as otherwise provided, the term'';

(4) in section 5230(1) (20 U.S.C. 7223i(1)), by striking ''5210'' and inserting ''5211''; and

(5) in section 5247(1) 20 U.S.C. 7225f(1)), by striking ''5210'' and inserting ''5211''.

(d) TABLE OF CONTENTS.—The table of contents of the Elementary and Secondary Education Act of 1965 is amended—

(1) by inserting before the item relating to subpart 1 of part B of title V the following:

''Sec. 5200. Authorization of appropriations for subparts 1 and 2.'';

(2) by striking the items relating to sections 5210 and 5211; and

(3) by inserting after the item relating to section 5209 the following:

''Sec. 5210. Charter school expansion and replication.

''Sec. 5211. Definitions.''.

By Ms. SNOWE (for herself, Mr. CARDIN, and Ms. LANDRIEU):

S. 3444. A bill to require small business training for contracting officers; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, as Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I rise today, during National Small business Week, along with my colleague Senator CARDIN, to introduce the Small Business Training in Federal Contracting Certification Act. This vital piece of legislation builds upon the Small Business Contracting Revitalization Act, S. 2989, which passed unanimously out of the Small Business Committee on March 4, and would require the development of small business training for contracting officials. The bill we introduce today would take an additional step by requiring contracting officials to successfully complete small business training prior to receiving certification in Federal contracting.

During these devastating economic times, with small business owners struggling to retain jobs, much less create new jobs, it is paramount that small businesses have a fair opportunity to contract with Federal Agencies, because the Federal Government is the largest buyer of goods and services in the world, spending over $500 billion in fiscal year 2009 alone. I remain frankly dismayed by the myriad ways the Federal Government has time and again egregiously failed to meet its statutory, government-wide small business ''goaling'' requirements that 23 percent of all Federal procurement dollars must be allocated to small contracting firms. This legislation would help the Federal Government to meet—and even exceed—its 23 percent goal, because it would require investing time and training in contracting officials who make the ultimate determination on contract awards be trained in small business procurement issues.

Contracting officials have a great deal of responsibility. They provide the Federal government with expertise when buying goods and services to enable agencies to achieve their mission by fairly and reasonably obligating taxpayer dollars while simultaneously addressing our Nation's socio-economic needs. I have heard from constituents and others in the contracting community that contracting officials do not understand their duty to provide opportunities to small businesses to the maximum extent practicable. So, it is imperative that we provide contracting officials the tools they need to bolster small business participation in Federal contracting—to include training on small business government contracting set-aside programs, understanding size standards and the North American Industry Classification System codes and how they apply to the contract award process, conducting market research, as well as all of the Small Business Administration's resources and programs available to them.

Small businesses are the engine of our economy and in this time of economic hardship, the Federal Government must provide our Nation's entrepreneurs with every opportunity to succeed. Federal contracting can be an instrumental part of a larger strategy for broadening small businesses' customer base and creating jobs. In my leadership capacity on the Senate Small Business Committee, I have long been a champion of removing barriers to small businesses seeking entry into the Federal marketplace. Through the years, I have introduced numerous bills that combat contract bundling, mandate recurrent small business size standard adjustments, ensure equal opportunity to compete for Federal contracts among the various socio-economic small businesses groups, and reduce fraud and abuse in SBA's small business contracting programs.

The Federal Government's inability to consistently meet all of its small business contracting goals is unjustifiable. Only one category of small business contracting goals—small disadvantaged businesses—has been met, while the goals for the three other programs—historically underutilized business zones, HUBZone, small businesses, women-owned small businesses, and service-disabled veteran-owned small businesses—has never been achieved. It is inconceivable as to why this remains a problem year after year, especially since contracts awarded using American Recovery and Reinvestment Act dollars have demonstrated that attainment of these goals is possible.

In conclusion, I believe that requiring certification training for Federal contracting officers will help the Government meet the statutory small business contracting goals and will increase small business access to Federal contracts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3444

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Training in Federal Contracting Certification Act of 2010''.

SEC. 2. SMALL BUSINESS TRAINING.

Section 37(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(f)) is amended—

(1) by striking ''For each career path,'' and inserting the following:

''(A) IN GENERAL.—For each career path,''; and

(2) by adding at the end the following:

''(B) CERTIFICATION PROGRAM.—

''(i) IN GENERAL.—The Administrator shall establish a certification program for acquisition personnel. The certification program shall be carried out through the Federal Acquisition Institute.

''(ii) SMALL BUSINESS TRAINING.—The certification program under this subparagraph shall include training regarding—

''(I) small business government contracting set-aside programs, including—

''(aa) programs for HUBZone small business concerns, small business concerns owned and controlled by service-disabled veterans, and small business concerns owned and controlled by women (as those terms are defined in section 3 of the Small Business Act (15 U.S.C. 632));

''(bb) programs for socially and economically disadvantaged small business concerns (as defined in section 8(a) of the Small Business Act (15 U.S.C. 637(a))); and

''(cc) contracting under the Small Business Innovation Research Program and the Small Business Technology Transfer Program (as those terms are defined in section 9(e) of the Small Business Act (15 U.S.C. 638(e)));

''(II) determining small business size standards and using North American Industry Classification System codes in relation to contracting set-aside programs and subcontracting goals; and

''(III) any other issue relating to contracting with small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) determined appropriate by the Administrator.''.

By Mr. HATCH:

S. 3445. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for certain professional development and other expenses of elementary and secondary school teachers and for certain certification expenses of individuals becoming science, technology, engineering, or math teachers; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce legislation designed to increase tax fairness for America's primary and secondary school teachers.

Our public school teachers are some of the unheralded heroes of our society. These women and men dedicate their careers to educating the young people of America. School teachers labor in often difficult and even dangerous circumstances. In most places, including in my home state of Utah, the salary of the average public school teacher is significantly below the national average.

For a variety of economic and organizational reasons, schools across the nation are experiencing difficulties in recruiting teachers—especially in the fields of math and science. There are at least two sources to this problem. First, schools are experiencing high levels of turnover related to retirement, relocation, and attrition. Second, there is an insufficient supply of new qualified math and science teachers coming in to the schools to compensate for the turnover.

As a result of these factors, 31 percent of secondary schools across the nation report difficulties in filling math and science faculty positions. This teacher recruitment problem is especially troubling because it disproportionately affects small schools in urban and rural areas, especially those with limited access to funding.

Unfortunately, the problems of retention and recruitment of public school teachers are exacerbated by the unfair tax treatment these professionals currently receive under our tax law. Specifically, teachers are greatly disadvantaged by the lack of deductibility of the total amount of out-of-pocket costs of classroom materials that practically all teachers find themselves supplying, as well as by the inability to deduct their professional development expenses. Let me explain.

As with many other professionals, most elementary and secondary school teachers regularly incur expenses to keep themselves current in their fields of knowledge. These include subscriptions to journals and other periodicals as well as the cost of courses and seminars designed to improve their knowledge or teaching skills. For example, in order to be certified by the National Board for Professional Teaching Standards, NBPTS, a teacher must pay a fee of $2,500. Expenditures like these are necessary to keep our teachers up to date on the latest ideas, techniques, and trends so that they can provide our children with the best education possible.

Furthermore, almost all teachers find themselves spending not insignificant amounts of money to provide basic classroom materials for their students. Because of tight education budgets, most schools do not provide 100 percent of the material teachers need to adequately present their lessons. New teachers in their first and second years are especially susceptible to a large financial burden as they must start from scratch in establishing a curriculum and classroom for their students.

I realize that employees in many fields incur expenses for professional development and out-of-pocket expenses. In many cases, however, these costs are reimbursed by the employer. This is seldom the case with school teachers. Other professionals who are self-employed are generally able to fully deduct these types of expenses.

Under the current tax law, unreimbursed expenses for all employees are deductible generally, but only as miscellaneous itemized deductions. However, there are two practical hurdles that effectively make these expenses non-deductible for most teachers. The first hurdle is that the total amount of a taxpayer's deductible miscellaneous deductions must exceed 2 percent of gross income before they begin to be deductible.

The second hurdle is that the amount in excess of the 2 percent floor, if any, combined with all other deductions of the taxpayer, must exceed the standard deduction before the teacher can itemize. Only about one-third of taxpayers have enough deductions to itemize. The unfortunate effect of these two limitations is that, as a practical matter, only a small proportion of teachers are able to deduct their professional development and out-of-pocket supplies expenses.

Let me illustrate this unfair situation with an example. Let us consider the case of a first-year teacher in Utah, whom we will refer to as Michelle. Michelle is newly married. She and her husband together expect to earn $48,000 this year. As a brand-new teacher, Michelle has none of the classroom decorations, materials, or curriculum aides that veteran teachers have accumulated. In an effort to quickly collect some necessary items for her classroom, a new teacher like Michelle will probably spend close to $1,500 of her own money. She will not be reimbursed for any of these expenses by the school district.

Under current law, Michelle's expenditures are deductible, subject to the two limitations I mentioned. The first limitation is that her expenses must exceed 2 percent of her and her husband's joint income before they begin to be deductible. Two percent of $48,000 is $960. Thus, only $540 of her $1,500 total expense is potentially deductible—that portion that exceeds $960.

As a married taxpayer, Michelle's standard deduction this year is $11,400. Her total itemized deductions, including the $540 in qualified miscellaneous deductions for her professional expenses and out-of-pocket classroom supplies, will fall far short of the standard deduction threshold. Therefore, not even the $540 of the original $1,500 in out-of-pocket costs is deductible for Michelle. What the first limitation did not block, the second one did, and Michelle gets no deduction at all for these expenses under the current law.

The entry-level employees in the teaching field are the first- and second-year teachers like Michelle, who receive the lowest relative salary and yet often incur the greatest school-related expenses. These expenses place a heavy burden on our teachers and can act as a significant barrier to entry to the teaching profession. Many of these new teachers are renting and fresh out of college, and are thus very unlikely to be able to itemize their deductions. Therefore, without the ability to itemize, the teachers with the greatest need of tax relief are the ones least likely to receive it.

This problem is not isolated to first-year teachers. Veteran educators, like Kristen Adamson, also an elementary school teacher in Utah, have also expressed their concerns about this tax inequity. Kristen is preparing for a class of 35 fifth-graders next year—the most she's ever had. She, like most teachers, feels that it is her duty to provide all of her students with the materials they will need to successfully complete their school work. There are few careers that I know of in which employees take similar initiative.

This year, due to limited state funding, Kristen will be forced to choose between a class set of colored pencils or a class set of crayons. Whatever the district does not provide, Kristen will be forced to purchase herself. Further, the school district provides only one

notebook per student, but her pupils require a minimum of four each to organize their work. With 35 students, these costs can add up very quickly. Kristen typically does not have enough deductions to itemize and therefore, like most teachers, will receive little or no tax relief.

As you can see, public school educators are at a marked disadvantage under the current tax law, and they deserve better treatment. Not only is the situation morally unacceptable, it is aggravating to our teacher retention and recruitment problems.

I have been fighting to pass legislation that will help alleviate this longstanding problem for almost a decade. In 2001, I first introduced the Tax Equity for School Teachers Act. This legislation would have provided an unlimited tax deduction for the out-of-pocket expenses school teachers incur to acquire necessary training and materials.

Rather than being available only to those who are able to itemize their deductions, this bill would have made these expenses ''above-the-line'' deductions, meaning they would be deductible whether or not the teacher itemized on their tax return.

Unfortunately, only a part of this bill was enacted. The 2001 tax act included an above the-line deduction for $250 for the costs of classroom expenses. While this was a step in the right direction, it was essentially a symbolic gesture as teachers typically spend far more than $250 on school-related expenses. This deduction has expired and has been renewed several times, but it expired again at the end of last year. It is not clear when Congress is going to extend it.

The bill I am introducing today would do three things. First, it would reinstate the above-the-line deduction for teachers' out-of-pocket expenses for classroom supplies, make it permanent, and remove the $250 cap. Second, it would provide an unlimited deduction for the professional development expenses for school teachers. Finally, to assist in the recruitment of teachers in the most-needed fields, it would provide an unlimited deduction for the cost of professionals in the fields of math, science, and technology to certify to become public school teachers.

Under my bill, first-year teacher Michelle would be allowed to deduct all $1,500 of her professional development and classroom supplies expenses, whether she itemized or not. Similarly, Kristen would be able to deduct all of the expenses she incurred to provide materials for her students. This would help provide tax equity and a measure of much-needed tax relief for scores of underpaid professionals. It would also help retain current public school teachers and attract new ones to the field.

Some might argue that such a generous deduction would be giving teachers preferential treatment. I disagree. Most organizations provide training and supplies for their employees that are fully deductible to the organization and non-taxable to the employee. Yet, public teachers pay for training out of their own pocket, as is the case with NBPTS certification.

Others may question the wisdom of my bill granting an unlimited tax deduction. Why not place a limit or cap on the amount that may be deducted, some might ask. Again, I respectfully disagree with such critics. It is important to keep in mind the difference between a tax deduction and a tax credit. My bill calls for tax deductions, which essentially act as a cost-sharing arrangement between the teacher and the government. Deductions reduce the amount of income that is subject to tax. A credit, on the other hand, is a dollar-for-dollar reduction in the amount of tax that is due.

With a tax deduction, a public school teacher is not receiving a cash subsidy or reimbursement for his or her expenses. Rather, he or she is merely obtaining a reduction in the amount of income that is taxed. Thus, the most benefit a teacher would receive under my bill would be a 35 percent reduction in the cost of professional development, supplies, or certification expenses. For the vast majority of teachers, the amount would be far less than 35 percent, because they are in lower tax brackets. This means that the teacher is still responsible for paying for the biggest portion of these costs. In other words, this bill does not provide an incentive for teachers to spend unnecessary funds; it simply provides a discount for teachers who use their common sense and spend their money appropriately. If anything, this deduction is not generous enough, but it would go a long way toward providing help for these dedicated professionals.

Support for mathematics and science education at all levels is necessary to improve the global competitiveness of the United States in science and energy technology. I endorse the efforts of some of my colleagues to encourage more of our best and brightest students who choose these fields of study. Sup ort for qualified STEM teachers, Science, Technology, Engineering, and Mathematics, is equally important. If we are successful in increasing the supply of STEM students, we will need to take drastic measures to increase the already strained supply of STEM teachers. This bill would provide incentives for these professionals to enter the teaching profession by allowing expenses in connection with teacher licensing and certification to be fully deductible, above the line, the same as professional development and supplies expenses of teaching professionals.

This bill would provide modest tax relief for teachers who, for too long, have been treated unfairly under our tax laws. It would alleviate significant barriers to entry to the teaching profession and would help solve some of our teacher recruitment and retention problems. Our teachers deserve whatever help we can provide. It is time that Congress recognized this unfairness and corrected it. I thank the Senate for the opportunity to address this issue today, and I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3445

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tax Equity for School Teachers Act of 2010''.

SEC. 2. DEDUCTION FOR CERTAIN PROFESSIONAL DEVELOPMENT EXPENSES AND CLASSROOM SUPPLIES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS AND FOR CERTAIN CERTIFICATION EXPENSES OF SCIENCE, TECHNOLOGY, ENGINEERING, OR MATH TEACHERS.

(a) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subparagraph (D) of section 62(a)(2) of the Internal Revenue Code of 1986 (relating to certain expenses of elementary and secondary school teachers) is amended to read as follows:

''(D) CERTAIN PROFESSIONAL DEVELOPMENT EXPENSES, CLASSROOM SUPPLIES, AND OTHER EXPENSES FOR ELEMENTARY AND SECONDARY TEACHERS.—The sum of the deductions allowed by section 162 with respect to the following expenses:

''(i) Expenses paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.

''(ii) Expenses paid or incurred by an eligible educator which constitute qualified professional development expenses.

''(iii) Expenses which are related to the initial certification of an individual (in the individual's State licensing system) as a qualified science, technology, engineering or math teacher.''.

(b) DEFINITIONS AND SPECIAL RULES.—Section 62(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules is amended by redesignating paragraph (2) as paragraph (5) and by adding after paragraph (1) the following new paragraphs:

''(2) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—For purposes of subsection (a)(2)(D)—

''(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction.

''(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

''(i) is—

''(I) directly related to the curriculum and academic subjects in which an eligible educator provides instruction,

''(II) designed to enhance the ability of an eligible educator to understand and use State standards for the academic subjects in which such teacher provides instruction, or

''(III) designed to enable an eligible educator to meet the highly qualified teacher requirements under the No Child Left Behind Act of 2001,

''(ii) may provide instruction to an eligible educator—

''(I) in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including children who are gifted and talented), or

''(II) in how best to discipline children in the classroom and identify early and appropriate interventions to help children described in subclause (I) to learn,

''(iii) is tied to the ability of an eligible educator to enable students to meet challenging State or local content standards and student performance standards,

''(iv) is tied to strategies and programs that demonstrate effectiveness in assisting an eligible educator in increasing student academic achievement and student performance, or substantially increasing the knowledge and teaching skills of an eligible educator, and

''(v) is part of a program of professional development for eligible educators which is approved and certified by the appropriate local educational agency as furthering the goals of the preceding clauses.

''(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as in effect on the date of the enactment of this subsection.

''(3) QUALIFIED SCIENCE, TECHNOLOGY, ENGINEERING, OR MATH TEACHER.—For purposes of subsection (a)(2)(D), the term 'qualified science, technology, engineering, or math teacher' means, with respect to a taxable year, an individual who—

''(A) has a bachelor's degree or other advanced degree in a field related to science, technology, engineering, or math,

''(B) was employed as a nonteaching professional in a field related to science, technology, engineering, or math for not less than 3 taxable years during the 10-taxable-year period ending with the taxable year,

''(C) is certified as a teacher of science, technology, engineering, or math in the individual's State licensing system for the first time during such taxable year, and

''(D) is employed at least part-time as a teacher of science, technology, engineering, or math in an elementary or secondary school during such taxable year.

''(4) EXEMPTION FROM MINIMUM EDUCATION OR NEW TRADE OR BUSINESS EXCEPTION.—For purposes of applying subsection (a)(2)(D) and this subsection, the determination as to whether qualified professional development expenses, or expenses for the initial certification described in subsection (a)(2)(D)(iii), are deductible under section 162 shall be made without regard to any disallowance of such a deduction under such section for such expenses because such expenses are necessary to meet the minimum educational requirements for qualification for employment or qualify the individual for a new trade or business.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

By Mr. UDALL of New Mexico:

S. 3446. A bill to amend the Child Nutrition Act of 1966 to advance the health and wellbeing of schoolchildren in the United States through technical assistance, training, and support for healthy school foods, local wellness policies, and nutrition promotion and education, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. UDALL of New Mexico. Mr. President, I rise today to express support for S. 3307, the Healthy, Hunger-Free Kids Act of 2010, and to introduce two pieces of legislation that I hope will be included in the final reauthorization of the Child Nutrition Act that is passed by this body.

I commend Chairman LINCOLN and Ranking Member CHAMBLISS for their successful efforts to produce a bipartisan and fully paid for Child Nutrition Reauthorization bill—a bill that won unanimous support in the Agriculture Committee where it passed this past March.

The Healthy, Hunger-Free Kids Act of 2010 is critically important to the health, well-being, and even education of our nation's children. It seeks to confront the challenges of hunger and obesity that are increasingly pervasive in our youth. Specifically, the act reauthorizes our nation's major Federal child nutrition programs administered by the U.S. Department of Agriculture, USDA, including the National School Lunch and Breakfast Programs, the Special Supplemental Nutrition Program for Women, Infants and Children, WIC, the Child and Adult Care Food Program and the Summer Food Service Program.

Totaling $4.5 billion in additional funding over the next 10 years, the Healthy, Hunger-Free Kids Act is the largest new investment in child nutrition programs since their inception—and it is completely paid for by off-sets in other USDA programs. This added funding will allow for an increase in reimbursement rates for school meals, which is an important provision since current reimbursement rates fall short of the funding schools need in order to provide nutritious meals with fresh fruits and vegetables to students. The bill also makes mandatory the funding authorized in the Child Nutrition Act to help schools establish school gardens and source local foods through ''farm to cafeteria'' efforts.

Beyond funding, the Healthy, Hunger-Free Kids Act makes enrollment into the free school meals program automatic for foster children and for students already enrolled in Medicaid. The bill further promotes the establishment of school wellness policies, and allows the USDA to set school nutrition standards for all foods, including those sold a la carte, in vending machines and during special events such as afterschool sports.

While this bill, combined with the President's request of $10 billion for child nutrition programs over the next 10 years, represents a huge step toward a healthier population of young people, I believe there is room for even more improvement. To this end, I am today introducing the Child Nutrition Enhancement Act, and the Ensuring All Students Year-Round, EASY, Access to Meals and Snacks Act. These two bills will help schools ramp up their nutrition and health programs, and ensure that kids have access to food, even on weekends and holidays when they cannot get meals at school. These bills also enjoy House support, with Representatives POLIS and LARSEN already having introduced companions in that chamber.

The Child Nutrition Enhancement Act would expand the Team Nutrition Networks program, a USDA program that provides grants to school districts to support State Wellness and Nutrition Networks in schools that conduct nutrition education and enhance school wellness. To allow this expansion, the bill includes mandatory funding at a level of 1 cent per reimbursable meal through National School Lunch Program, Child and Adult Care Food Program, and Summer Food Service Program, totaling approximately $70 million per year. Such funding would be used for State staff and programs, formula-based grants and USDA administration.

The Ensuring All Students Year-round Access to Meals and Snacks Act would allow local government agencies and private nonprofit organizations to feed children meals and snacks 365 days-a-year through the Summer Food Service Program, whether it be after school, on weekends and school holidays, or during the summer. School supplemental food providers find that children often go hungry on weekends and school holidays because their main source of nutrition is the free school lunch program. This bill would allow food service programs to fill in the gaps on holidays and weekends when kids are likely to miss meals, and ease the administrative burden of food service programs by allowing year round meals and snacks through the Summer Food Service Program, rather the current requirement to switch back and forth between the Summer Food Service Program and other child nutrition programs such as the Child and Adult Care Food Program.

With September 30th as the looming deadline for reauthorization of the Child Nutrition Act, I call on my colleagues and the leadership in the Senate to expedite the debate and passage of the Healthy, Hunger-Free Kids Act. I look forward to working with the Agriculture Committee and the Senate leadership to include the Child Nutrition Enhancement Act, and the EASY Access to Meals and Snacks Act in the final bill, and to complete the legislative process for this important reauthorization.

By Mr. AKAKA:

S. 3447. A bill to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I am introducing today the proposed Post-9/11 Veterans Educational Assistance Improvements Act of 2010. This measure is designed to make a number of modifications to the new program of educational assistance which became effective on August 1, 2009.

As one of three remaining Senators who benefited from the original GI Bill

following World War II, I know firsthand the value of an education and of the critical role that this important veterans benefit played in my life. That was why I was especially pleased to join with the distinguished Senator from Virginia, Mr. WEBB, in achieving enactment of the new Post-9/11 GI Bill in 2008.

Now, with ten months of experience under the new program, I believe it is time to look at what improvements and modifications need to be made in order for the program to reach its potential. I note at the outset that this will not be a simple process. Nor will it be quickly and easily accomplished. There are issues that we can readily see need to be addressed. There are others, however, that are only just now coming to our attention as the program is implemented and veterans, servicemembers, and their families begin to receive benefits under the program.

I will highlight some of the provisions that are contained in the bill I am introducing today:

It would make members of the National Guard and Reserve programs who were inadvertently omitted from inclusion fully eligible for benefits.

It would make all types of training—including vocational programs, OJT and apprenticeship training, flight, all types of non-college degree training and more—eligible for benefits under the new program. By doing this, individuals would not need to make an irreversible decision as to whether or not to receive benefits under the old Montgomery GI Bill or under the new program.

It would eliminate the complicated, confusing and, in some cases, inequitable calculation of State-by-State tuition and fee caps to determine benefits for individuals enrolled in degree programs. Basically, it would provide that eligible individuals enrolled in degree-granting programs of study at public institutions anywhere in the United States would pay little, if any, out of pocket costs for their education. For students enrolled in other institutions of higher learning, benefits would be paid based on a national average cost of education which would be indexed and increased annually.

It would provide for a modified living allowance to be paid in the case of an individual pursuing a program of education solely through distance learning. Individuals who currently are studying through a combination of distance and classroom training would continue to receive benefits as they do now.

It would make a book allowance award of up to $1,000 available to individuals enrolled while on active duty and their spouses.

It would allow individuals enrolled in VA's program of rehabilitation and training under chapter 31 of title 38 who also have eligibility for the new chapter 33 program to elect the program from which to receive their subsistence allowance. This would mean that a service-connected disabled OEF/OIF veteran would not need to elect to training under the new GI Bill and forego the valuable counseling and support services available under chapter 31 in order to receive an increased living allowance.

It would modify the manner in which the living allowance is calculated to reflect the rate at which training is pursued.

It would ensure that the same period of active duty cannot be used to establish eligibility for more than one program of education.

This is not a complete recitation of all the provisions contained in the measure I am introducing today. In addition, I do not expect that every provision of the measure will necessarily be supported by all the stakeholders involved in this important issue. Indeed, I imagine there could be some who will be critical of some provisions in the proposal and will come forward to offer improvements and modifications.

What my measure is intended to do, is to serve as a starting point to move forward in this important yet very complicated and complex endeavor. I strongly believe that whatever is done in this connection must not be done in a piecemeal manner. We need a full and deliberative consideration of all the issues in order to craft the best possible approach to delivering these important benefits to our Nation's veterans and those who are serving in uniform.

I look forward to working with all our colleagues and others on these issues in the days ahead. As I noted, this will not be done quickly or easily but this measure will serve as a focus for our discussions and decisions.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3447

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Post-9/11 Veterans Educational Assistance Improvements Act of 2010''.

SEC. 2. MODIFICATION OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) MODIFICATION OF DEFINITIONS THAT CONCERN ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.—

(1) MODIFICATION OF DEFINITION OF ACTIVE DUTY WITH RESPECT TO MEMBERS OF RESERVE COMPONENTS GENERALLY.—Paragraph (1)(B) of section 3301 of title 38, United States Code, is amended by striking ''of title 10.'' and inserting the following: ''of title 10—

''(i) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components of the Armed Forces; or

''(ii) in support of a contingency operation (as defined in section 101(a) of title 10).''.

(2) EXPANSION OF DEFINITION OF ACTIVE DUTY TO INCLUDE SERVICE IN NATIONAL GUARD FOR CERTAIN PURPOSES.—Paragraph (1) of such section is amended by adding at the end the following new subparagraph:

''(C) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, in addition to service described in subparagraph (B), full-time service—

''(i) in the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard; and

''(ii) in the National Guard under section 502(f) of title 32 when authorized by the President or Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.''; and

(3) EXPANSION OF DEFINITION OF ENTRY LEVEL AND SKILL TRAINING TO INCLUDE ONE STATION UNIT TRAINING.—Paragraph (2)(A) of such section is amended by inserting ''or One Station Unit Training'' before the period at the end.

(b) CLARIFICATION OF APPLICABILITY OF HONORABLE SERVICE REQUIREMENT FOR CERTAIN DISCHARGES AND RELEASES FROM THE

ARMED FORCES AS BASIS FOR ENTITLEMENT TO EDUCATIONAL ASSISTANCE.—Section 3311(c)(4) of such title is amended in the matter preceding subparagraph (A) by striking ''A discharge or release from active duty in the Armed Forces'' and inserting ''A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service''.

(c) EXCLUSION OF PERIOD OF SERVICE ON ACTIVE DUTY OF PERIODS OF SERVICE IN CONNECTION WITH ATTENDANCE AT THE COAST GUARD ACADEMY.—Section 3311(d)(2) of such title is amended by inserting ''or section 182 of title 14'' before the period at the end.

SEC. 3. MODIFICATION OF AMOUNT OF ASSISTANCE AND TYPES OF APPROVED PROGRAMS OF EDUCATION.

(a) AMOUNT OF EDUCATIONAL ASSISTANCE FOR PROGRAMS OF EDUCATION PURSUED AT PUBLIC, NON-PUBLIC, AND FOREIGN INSTITUTIONS OF HIGHER LEARNING.—Section 3313(c) of title 38, United States Code, is amended—

(1) by striking the subsection heading and inserting the following: ''PROGRAMS OF EDUCATION AT INSTITUTIONS OF HIGHER LEARNING PURSUED AT MORE THAN HALF-TIME BASIS.—'';

(2) in the matter preceding paragraph (1) by inserting ''at an institution of higher learning (as defined in section 3452(f) of this title)'' after ''program of education''; and

(3) in paragraph (1), by amending subparagraph (A) to read as follows:

''(A) An amount equal to—

''(i) in the case that such institution is a public institution of higher learning, the established charges for the program of education; and

''(ii) in the case that such institution is a non-public or foreign institution of higher learning, the lesser of—

''(I) the established charges for the program of education; or

''(II) the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.''.

(b) MODIFICATION OF AMOUNT OF MONTHLY STIPENDS, INCLUDING STIPENDS FOR PART-TIME STUDY, DISTANCE LEARNING, AND PURSUIT OF PROGRAMS OF EDUCATION AT FOREIGN INSTITUTIONS OF HIGHER LEARNING.—Subparagraph (B) of section 3313(c)(1) of such title is amended—

(1) by redesignating clause (ii) as clause (iv); and

(2) by striking clause (i) and inserting the following new clauses:

''(i) Except as provided in clauses (ii) and (iii), for each month the individual pursues the program of education, a monthly housing stipend amount equal to the product of—

''(I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher learning at which the individual is enrolled, multiplied by

''(II) the lesser of one or the quotient of—

''(aa) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

''(bb) the minimum number of course hours required for full-time pursuit of such program of education.

''(ii) In the case of an individual pursuing a program of education at a foreign institution of higher learning, for each month the individual pursues the program of education, a monthly housing stipend amount equal to the product of—

''(I) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5, multiplied by

''(II) the lesser of one or the quotient of—

''(aa) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

''(bb) the minimum number of course hours required for full-time pursuit of such program of education.

''(iii) In the case of an individual pursuing a program of education through distance learning on more than a half-time basis, a monthly housing stipend amount in an amount equal to 50 percent of the amount payable under clause (ii) if the individual were otherwise entitled to a monthly housing stipend under that clause for pursuit of the program of education.''.

(c) EDUCATIONAL ASSISTANCE FOR APPROVED PROGRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—

(1) APPROVED PROGRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—Subsection (b) of section 3313 of such title is amended by striking ''is offered by an institution of higher learning (as that term is defined in section 3452(f)) and''.

(2) ASSISTANCE FOR PURSUIT OF PROGRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—Such section is further amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following new subsection (g):

''(g) PROGRAMS OF EDUCATION PURSUED AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—

''(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education at an institution other than an institution of higher learning.

''(2) AMOUNT OF ASSISTANCE.—The amounts of educational assistance payable under this chapter to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education at an institution other than an institution of higher learning (as defined in section 3452(f) of this title) are amounts as follows:

''(A) In the case of an individual enrolled in a program of education (other than a program described in subparagraphs (B) through (D)) in pursuit of a certificate or other non-college degree, amounts as follows:

''(i) The lesser of—

''(I) the established charges for the program of education; or

''(II) the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.

''(ii) A monthly stipend in an amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution at which the individual is enrolled.

''(B) In the case of an individual enrolled in a program of education consisting of on-job training or a program of apprenticeship, amounts as follows:

''(i) For each month the individual pursues the program—

''(I) in the first six-month period of the program, an amount equal to 75 percent of 1/12 of the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year;

''(II) in the second six-month period of the program, an amount equal to 55 percent of 1/12 of the amount of such average; and

''(III) in any month after the first 12 months of such program, an amount equal to 35 percent of 1/12 of the amount of such average.

''(ii) A monthly stipend in an amount equal to the lesser of—

''(I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the employer at which the individual pursues such program; or

''(II) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5.

''(C) In the case of an individual enrolled in a program of education consisting of flight training, an amount equal to the lesser of—

''(i) the established charges for the program of education; or

''(ii) 60 percent of the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.

''(D) In the case of an individual enrolled in a program of education that is pursued exclusively by correspondence, an amount equal to the lesser of—

''(i) the established charges for the program of education; or

''(ii) 55 percent of the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.

''(3) CHARGE AGAINST ENTITLEMENT.—The entitlement of an individual to educational assistance under this chapter shall be charged at the rate of one month for each month of assistance provided under this subsection.''.

(3) CONFORMING AMENDMENT.—Subsection (h) of such section 3313, as redesignated by paragraph (2) of this subsection, is amended by striking ''(e)(2), and (f)(2)(A)'' and inserting ''subsections (e)(2) and (f)(2)(A), and subparagraphs (A)(i), (B)(i), (C), and (D) of subsection (g)(2)''.

(d) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—

(1) IN GENERAL.—Subsection (e)(2) of such section is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) in the matter preceding clause (i), as redesignated by subparagraph (A)—

(i) by striking ''The amount'' and inserting ''The amounts''; and

(ii) by striking ''is the lesser of—'' and inserting ''are the amounts as follows:

''(A) An amount equal to the lesser of—''; and

(C) by adding at the end the following new subparagraph (B):

''(B) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

''(i) $1,000, multiplied by

''(ii) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.''.

(2) TECHNICAL AMENDMENT.—Clause (ii) of subsection (e)(2)(A) of such section, as redesignated by paragraph (1)(A) of this subsection, is amended by adding a period at the end.

SEC. 4. MODIFICATION OF ASSISTANCE FOR LICENSURE AND CERTIFICATION TESTS.

(a) REPEAL OF LIMITATION ON NUMBER OF REIMBURSABLE TESTS.—Subsection (a) of section 3315 of title 38, United States Code, is amended by striking ''one licensing or certification test'' and inserting ''licensing or certification tests''.

(b) CHARGE OF ENTITLEMENT FOR RECEIPT OF ASSISTANCE.—Such section is further amended by striking subsection (c) and inserting the following new subsection (c):

''(c) CHARGE AGAINST ENTITLEMENT.—The charge against entitlement of an individual under this chapter for payment for a licensing or certification test under subsection (a) shall be charged at the rate of one month for each amount equal to 1/12 of the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.''.

SEC. 5. TRANSFER OF ENTITLEMENT TO SUPPLEMENTAL EDUCATIONAL ASSISTANCE TO POST-9/11 EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 3316 of title 38, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) TRANSFER OF SUPPLEMENTAL EDUCATIONAL ASSISTANCE.—

''(1) IN GENERAL.—An individual entitled to supplemental educational assistance under subchapter III of chapter 30 of this title may transfer such entitlement to entitlement for supplemental educational assistance under this section. Such individual shall receive entitlement to one month of supplemental educational assistance under this section for each month of entitlement to supplemental educational assistance so transferred.

''(2) RATE.—The monthly rate of supplemental educational assistance payable to an individual who transfers entitlement under paragraph (1) shall be payable at the same rate as such entitlement would otherwise be payable to such individual under subchapter III of chapter 30 of this title.

''(3) NATURE OF TRANSFERRED ENTITLEMENT.—An amount of supplemental educational assistance transferred under paragraph (1) shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section 3313(c) (as applicable).''.

(b) CLARIFICATION ON REIMBURSEMENT OF INCREASED OR SUPPLEMENTAL ASSISTANCE.—Such section is further amended by inserting after subsection (c), as added by subsection (a)(2) of this section, the following new subsection (d):

''(d) REIMBURSEMENT.—Any expense incurred by the Secretary for the provision of increased assistance or supplemental assistance to an individual under this section shall be reimbursed by the Secretary concerned.''.

SEC. 6. TRANSFER OF UNUSED EDUCATION BENEFITS TO FAMILY MEMBERS.

(a) ADMINISTRATION OF TRANSFERS OF ENTITLEMENT BY INDIVIDUALS NO LONGER MEMBERS OF THE ARMED FORCES.—Section 3319(h) of title 38, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

''(7) ADMINISTRATION FOR INDIVIDUALS NO LONGER MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall administer the provisions of this section with respect to individuals who are discharged or released from the Armed Forces, including the making of any determinations of eligibility of such individuals for transfers of entitlement under this section and the processing of applications to transfer, modify, or revoke entitlement under this section.''.

(b) APPLICABILITY OF ENTITLEMENT AUTHORITY TO MEMBERS OF PUBLIC HEALTH SERVICE AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Section 3319 of such title is amended by striking subsection (k).

(c) REIMBURSEMENT OF EXPENSES OF SECRETARY OF VETERANS AFFAIRS BY SECRETARY CONCERNED.—Such section is further amended by adding at the end the following new subsection (k):

''(k) REIMBURSEMENT OF EXPENSES OF SECRETARY OF VETERANS AFFAIRS BY SECRETARY CONCERNED.—Any expense incurred by the Secretary for the provision of educational assistance under subsection (a) to a dependent described in such subsection shall be reimbursed by the Secretary concerned.''.

(d) TECHNICAL CORRECTION.—Subsection (b)(2) of such section is amended by striking ''to section (k)'' and inserting ''to subsection (j)''.

SEC. 7. LIMITATIONS ON RECEIPT OF EDUCATIONAL ASSISTANCE UNDER NATIONAL CALL TO SERVICE AND OTHER PROGRAMS OF EDUCATIONAL ASSISTANCE.

(a) BAR TO DUPLICATION OF EDUCATIONAL ASSISTANCE BENEFITS.—Section 3322(a) of title 38, United States Code, is amended by inserting ''or section 510'' after ''or 1607''.

(b) LIMITATION ON CONCURRENT RECEIPT OF EDUCATIONAL ASSISTANCE.—Section 3681(b)(2) of such title is amended by inserting ''and section 510'' after ''and 107''.

SEC. 8. APPROVAL OF PROGRAMS OF EDUCATION CONSISTING OF DISTANCE LEARNING.

(a) NONACCREDITED COURSES PURSUED BY DISTANCE LEARNING.—Section 3676(e) of title 38, United States Code, is amended by inserting ''or distance learning'' after ''independent study''.

(b) DISAPPROVAL OF ENROLLMENT IN NONACCREDITED COURSES OF DISTANCE LEARNING.—Section 3680A(a)(4) of such title is amended by inserting ''or distance learning'' after ''independent study'' each place it appears.

(c) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe regulations under section 3323(c) of such title for the administration and approval of programs of education that consist of distance learning.

(d) DISTANCE LEARNING DEFINED.—In this section, the term ''distance learning'' has the meaning given the term ''distance education'' in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

SEC. 9. INCREASE IN AMOUNT OF REPORTING FEE.

Section 3684(c) of title 38, United States Code, is amended—

(1) by striking ''multiplying $7'' and inserting ''multiplying $12''; and

(2) by striking ''or $11'' and inserting ''or $15''.

SEC. 10. AMOUNT OF SUBSISTENCE ALLOWANCE FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 3108(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(4) A veteran entitled to subsistence allowance under this chapter may elect to receive payment from the Secretary, in lieu of an amount otherwise determined by the Secretary under this subsection, an amount equal to the national average of the monthly amount of basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5.''.

SEC. 11. REPEAL OF AUTHORITY TO MAKE CERTAIN INTERVAL PAYMENTS.

Section 3680(a) of title 38, United States Code, is amended after the flush matter—

(1) in subparagraph (A), by adding ''or'' at the end;

(2) in subparagraph (B), by striking ''; or'' and inserting a period; and

(3) by striking subparagraph (C).

By Mr. ROCKEFELLER (for himself and Mr. BYRD):

S. 3450. A bill to require publicly traded coal companies to include certain safety records in their reports to the Commission, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, it is time to take mining companies' safety records out of the darkness and bring some much-needed transparency and accountability to the industry.

Today, I am introducing legislation that would require any publicly-traded mining company to include critical mine safety information in its annual and quarterly filings with the Securities and Exchange Commission, SEC.

Shareholders have a direct interest in the safety record of any company they invest in—because safety has as much of an impact on a company's long-term financial health as its mining production.

But today, this safety information is not uniformly reported across the industry. My bill fixes this inconsistency and gives investors the information they need to hold corporate management responsible for the safety record of a company.

That is what my bill is all about: providing shareholders with standard information that can be used to measure and compare safety records across the industry. Specifically, my legislation would require any publicly-traded mine company to report the following information in their annual and quarterly filings with the SEC:

The total number of significant and substantial violations of mandatory health or safety standards;

The total number of failure to abate orders issued under section 104(b) of the Mine Act;

The total number of citations and orders for unwarrantable failure of the

mine operator to comply with mandatory health or safety standards under section 104(d) of the Mine Act;

The total number of flagrant violations under section 110 of the Mine Act;

The total number of imminent danger orders issued under section 107(a) of the Mine Act;

The total dollar value of Mine Safety and Health Administration, MSHA, proposed penalties and fines;

A list of the regulated worksites that have been notified by MSHA of a Pattern of Violation or a Potential to have a Pattern of Violations under section 104(e) of the Mine Act;

Any pending legal action before the Federal Mine Safety and Health Review Commission.

Any mining related fatalities.

In addition, any publicly-traded mining company must immediately disclose to the SEC if it receives a shutdown order under section 107(a) of the Mine Act, imminent danger, or receives notice that a mine site has a potential or actual pattern of violations.

I have always said that, first and foremost, this is about a company doing the right thing to develop a true culture of safety. That includes everyone, from the miner at the coal face to the Chairman of the Board.

If we are serious about making that culture a reality, shareholders need to be informed about safety too.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 3452. A bill to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that would transfer administrative jurisdiction of the Valles Caldera National Preserve from the Valles Caldera Trust to the National Park Service. I am pleased that my colleague from New Mexico, TOM UDALL, is cosponsoring the bill.

Between the New Mexico communities of Jemez Springs and Los Alamos, lies the Valle Grande, a magnificent valley surrounded by foothills and forested mountains. When standing in this valley, visitors begin to realize they are actually inside a larger bowl-shaped formation. This is the Valles Caldera—one of only three supervolcanoes in the United States. The oldest of the three—having formed 1.25 million years ago—the Valles Caldera is also the smallest. Yet the caldera rim spans more than 100,000 acres in area whose violent eruption created a volcanic ash plume that stretched from northern Utah to central Kansas. Because of its relatively small size as compared to the two other supervolcanoes in the U.S.—Yellowstone, WY, and Long Valley, CA, the Valles Caldera provides visitors with excellent opportunities to learn about large volcanic eruptions and their impacts on surrounding landscapes while they stand in a single space to experience one of the world's best examples of an intact resurgent caldera. In 1975, the Valles Caldera received formal recognition as an outstanding and nationally significant geologic resource when it was designated a National Natural Landmark.

As is the case in many parts of New Mexico, the geologic history of the Valles Caldera is inextricably linked to our State's cultural history. For example, the people of Jemez Pueblo chose the area as the best site to establish their community. The Valles Caldera and the adjacent Jemez Mountains provided the Pueblo with an ample food and water supply, natural defenses, and weapon-making materials present in the many obsidian quarries found in the area. In fact, the obsidian was of such high quality that spearheads made from these quarries have been discovered as far away as eastern Mississippi and northern Mexico. Needless to say, the Valles Caldera and the peaks that formed within it are sacred and highly revered by Jemez Pueblo and many other nearby tribes and pueblos.

The volcanic ash dispersed by the volcano's eruption also had a lasting impact on the history of migration and settlement by Ancestral Puebloan people in the region. As the ash and pumice settled, it formed layers of sediment, and over time, rivers helped to carve these layers into deep canyons. Archeologists have found evidence of nomadic tribes following large mammals into the region, and Ancestral Puebloans built homes alongside and into the soft canyon walls. Many of these awe-inspiring settlements are protected in Bandelier National Monument, where the National Park Service educates visitors about how the unique volcanic history of the Valles Caldera made these settlements possible.

There is no question that this area is worthy of Federal protection, and efforts to preserve this area were proposed as early as 1899. However, it was only ten years ago that the Federal government was finally able to acquire this property for the American people. At that time, Senator Domenici and I were successful in passing the Valles Caldera Preservation Act which authorized the acquisition of the property and established an experimental framework for the management of the Preserve for a period of 20 years. The legislation established the Valles Caldera Trust, composed of a nine-member board of trustees, whose members are appointed by the President and have particular expertise in fields important to the management of the Preserve. The bill also directed the Trust to manage the Preserve in a manner that would achieve financial self-sustainability after fifteen years. Five years thereafter, the Trust would be Although the individual members have done their best to fulfill the original legislative directives, time has shown in my opinion that this management framework is not the best suited for the long-term management of the Preserve.

Part of the experimental management framework was a requirement that the Valles Caldera Trust manage the Preserve in a manner that would achieve financial self-sustainability while providing for public access and protection of the Preserve's natural and cultural resources. This has proved to be a virtually impossible mandate to satisfy. Since its inception, the Preserve has not received adequate funding under the current arrangement and is unlikely to in the foreseeable future. In addition, most members of the board and outside observers believe the Trust will be unable to achieve the financial self-sustainability requirements called for by the original Act. The Trust has also indicated an infusion of approximately $15 million may be necessary to complete construction and deferred maintenance costs on the Preserve. I do not believe this funding will be forthcoming under the current management and budgetary framework. Moreover, much of the funding responsibility has been laid on the shoulders of Congress to provide the necessary annual funding that is not included in the President's annual budget. This arrangement is not sustainable in my opinion, and the existing statutory termination of the trust is looming.

With that said, the trust and its executive staff have made valuable progress in various areas of management. One prime example is the science and education program established by the Trust. Through the scientific activities on the preserve, the trust has been able to adapt its management based on the ecological demands of the caldera. The trust has promoted the scientific research of flora and fauna on the preserve and the impacts of climate change in the Jemez Mountains to cite a few of their ongoing activities. It is my belief that the transition in management should allow for the retention of the best management practices that the Trust has achieved.

Many New Mexicans have told me that they would like the preserve to be managed by an agency that will expand visitation and recreational opportunities while also ensuring the protection of the preserve's unique resources. Simply put, while my constituents eagerly want more access, they have stated clearly and directly—''Don't overrun it.''

I believe the National Park Service is best suited to manage the preserve while ensuring its long-term conservation.

The National Park Service's mission supports the activities called for most by my constituents, including expanded recreational opportunities, scientific study, and the interpretation of the natural and cultural resources in the preserve. As I discussed earlier, the Preserve provides a world-class opportunity for the interpretation of the geologic history of this unique area and of the fascinating geologic and cultural history that binds the Valles

Caldera and Bandelier National Monument.

Under our proposed legislation, management of the Valles Caldera National Preserve will be transferred to the National Park Service to be administered as a unit of the National Park System. The bill directs the Park Service to manage the Preserve to protect and preserve its natural and cultural resources, including its nationally significant geologic resources. Hunting and fishing would continue to be allowed, and grazing would also continue to be permitted. The National Park Service would also be directed to establish a science and education program utilizing the best practices created by the trust, as I discussed earlier.

The legislation would maintain the existing character of the preserve while strengthening protections for tribal, cultural, and religious sites and providing access by pueblos to the preserve. In addition, in consultation with the surrounding pueblos, restrictions will be put in place on the development and motorized vehicle use on the sacred volcanic domes within the preserve, similar to the current restrictions on Redondo Peak, the highest peak within the preserve.

I would like to emphasize that in no way is this legislation a criticism of the good work and valuable accomplishments made by the Board Members of the Valles Caldera Trust and the preserve staff. However, I believe having the preserve managed by the National Park Service—an agency with a mission protecting natural, historic, and cultural resources while also providing for public enjoyment of those resources—is more appropriate for the long-term future of the Valles Caldera. In my view, the desire for increased public access, balanced with the need to protect and interpret the Preserve's unique cultural and natural resources, would be best served by National Park Service management of the preserve.

It is my strong belief that transferring management of the Valles Caldera National Preserve to the National Park Service will be the best way to ensure the protection and enjoyment of the preserve over the long term. I urge my colleagues to support the bill as it is considered in the Senate.

The Los Alamos County Council and Los Alamos Chamber of Commerce have submitted resolutions in support of National Park Service management of the preserve. Mr. President, I ask unanimous consent that these resolutions be printed in the RECORD.

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

INCORPORATED COUNTY OF LOS ALAMOS
RESOLUTION NO. 10–05

A resolution supporting congressional actions to facilitate the transfer of management of the Valles Caldera National Preserve from the Valles Caldera Trust to the National Park Service under the U.S. Department of the Interior to be managed as a preserve, per the findings of the December 2009 updated report on the NPS 1979 new area, study that confirmed the Valles Caldera National Preserve's ability to meet the feasibility requirements of the National Park System.

Whereas, the enabling legislation PL106–248 created the Valles Caldera National Preserve (VCNP) from a unique parcel of land in north-central New Mexico, and by creating the Valles Calderas Trust as a wholly-owned government corporation to manage the preserve, the Valles Caldera Preservation Act of 2000 established a 20-year public-private experiment to operate the preserve without continued federal funding; and

Whereas, the Trust is charged with protecting and preserving the scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Preserve and achieving financial self-sufficiency by 2015, while operating the Preserve as a ''working ranch;'' and

Whereas, the GAO analyzed documents and financial records, and interviewed staff and stakeholders to determine the Trust's progress since 2000, the extent to which the Trust has fulfilled its obligations as a government corporation, and the challenges the Trust faces to achieve the Preservation Act goals, the results of which are published in an October 2009 Report to Congressional Committees, concluding that ''The Trust Has Made Progress but Faces Significant Challenges to Achieve Goals of the Preservation Act;'' and

Whereas, the national significance of the geological resources of the Valles Caldera was formally recognized in 1975 when the area was designated a National Natural Landmark; and

Whereas, the National Park Service (NPS) has existed since 1916 and has a proven record for successfully managing 89 million acres of sensitive and historically important public lands in America; and

Whereas, Senator Jeff Bingaman and Senator Tom Udall, on June 24, 2009 requested that the NPS undertake a reconnaissance study of the Valles Caldera National Preserve to assess its potential for inclusion in the NPS as a National Preserve; and

Whereas, the NPS completed ''An Updated Report on the NPS 1979 New Area Study'' published on December 15, 2009 which includes the following conclusion based on the findings: ''. . . the feasibility of the Valles Caldera for inclusion in the national park system has been enhanced since 1979. The national significance and suitability of the site for inclusion in the system is confirmed;'' and

Whereas, the report concludes that ''current uses within the VCNP are generally compatible with those in other preserves or parks in the national park system, and there is untapped potential for enhancing public enjoyment;'' and

Whereas, the report further concludes that ''a single management entity for Valles Caldera and Bandelier would enhance communication, and integration of management programs that require a regional approach, such as fire management, law enforcement, and emergency response would facilitate comprehensive management of resource issues that affect both the Preserve and Bandelier National Monument;'' and

Whereas, the report states that ''the national information system and audience for sites within the National Park System would [result in] increases in regional and national public use of the area . . . [and] result in increased retail sales for recreation and convenience goods locally, as well as increased volume of recreational, tourist, and other services; and

Whereas, the VCNP adjoins Los Alamos County lands and is treasured by residents and visitors as a valuable natural, historical, recreational and educational resource; and

Whereas, Los Alamos County is recognized and marketed as the primary gateway to the VCNP, providing support services such as lodging, restaurants, shopping and additional cultural and recreational experiences to tourists from around the world who seek out this unique, north-central New Mexico attraction; and

Whereas, management of this resource directly affects Los Alamos County's economic development initiatives, particularly in the area of tourism marketing; and

Whereas, the majority of the members of public who submitted comment via meeting and e-mail expressed their desire for the National Park Service to assume land management and operations for the Valles Caldera National Preserve; and

Whereas, the National Park Service policies require a general management plan process that engages the public in a collaborative effort to identify preferred uses, restrictions and management practices, while allowing temporary public access to the Valles Caldera National Preserve; and

Whereas, the County respectfully requests that the enabling legislation include language to expedite the management plan process, where possible, in order to move from planning and temporary access to implementation. Now, therefore, be it

Resolved, by the Council of the Incorporated County of Los Alamos, That the County of Los Alamos supports the transfer of the Valles Caldera National Preserve to the U.S. Department of the Interior's National Park Service to be managed as a preserve. Los Alamos County requests to be notified and involved in the process at every opportunity; be it further

Resolved, That if legislation to transfer the Preserve is not enacted in 2010 Congress consider action to modify the year 2000 enabling legislation to remove obstacles restricting the Valles Caldera Trust's ability to effectively manage the Preserve to meet the public's access priorities

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LOS ALAMOS COMMERCE &
DEVELOPMENT CORP.,
Los Alamos, NM, April 27, 2010.

Subject: Comment Concerning Future Management of Valles Caldera.

Senator JEFF BINGAMAN,
Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: Please accept our organization's comment on the question of the future management of the Valles Caldera property. Our organization operates several programs having strong interest in this matter. The Los Alamos Chamber of Commerce is an association of about 300 businesses, organizations, and individuals interested in positive community and economic development and our Los Alamos Meeting and Visitor Bureau program operates visitor centers in Los Alamos and White Rock and is an important resource for understanding visitation and tourism in our area.

We believe that the most desirable management option coinciding with the interests of the Los Alamos community is for the Valles Caldera to become a National Park managed by the National Park Service. This option presents several advantages:

The National Park Service option is by far the best from the standpoint of promoting visitation and tourism to the area. The NPS ''arrowhead'' is a powerful brand that far exceeds those of forest service and the Valles Caldera Trust in terms of attracting interest and visitation.

The NPS mission of ''safeguarding America's special places'' stands in contrast with the role of the Forest Service in consumptive use of resources. In contrast with the VCNP Trust, the NPS works with small businesses

to provide concession opportunities whereas the VCNP is motivated to develop captive services that do not provide such opportunities. These attributes of the NPS are best aligned among the three management options with our community's interests in realizing economic benefit from visitation and tourism.

In our experience in Los Alamos County, the involvement of the NPS in our community has far exceeded that of the other proposed management entities. Based on this experience, we believe that it is more likely that the NPS would be interested in working closely with our community for mutual benefit.

Please note that we do not expect the Valles Caldera to become ''Los Alamos-centric'' in any of the scenarios. We think that Los Alamos is a natural eastern gateway to the Valles and the Jemez Mountains just as we recognize that Jemez Pueblo and Jemez Springs are natural western gateway communities. We understand that it will be important for whatever management entity that is selected to reach out in both of these directions. We encourage that as general input regardless of the choice that is made.

We think that there is an opportunity to collaborate with the selected entity on a joint visitor center (or centers) in Los Alamos County. Such a facility would be a natural first stop for visitors to Los Alamos and would feature not only the Valles Caldera, but also Bandelier National Monument, the Bradbury Science Museum, the Los Alamos Historical Museum, the Pajarito Environmental Education Center, area Pueblos, and area recreational attractions. We are currently the operator of the visitor center here and we would welcome the opportunity to collaborate on a joint visitor center. We believe that this would enhance the visitor experience as well as enable economies of operation.

Thank you for listening to and accepting our input. Our organization stands ready to assist the selected management entity for the Valles Caldera.

Sincerely,

KEVIN HOLSAPPLE,
Executive Director.

On behalf of the Board of Directors of LACDC.

Mr. UDALL of New Mexico. Mr. President, today I join Senator BINGAMAN in introducing a bill to designate the Valles Caldera National Preserve as a unit of the National Park System. Known as the Valle Grande, this icon of the Jemez Mountains is one of the largest volcanic calderas in the world. The vast grass-filled valleys, forested hillsides, and numerous volcanic peaks make the Valles Caldera a treasure to New Mexico, and a landscape of national significance millions of years in the making.

Volcanic activity began in the Jemez Mountains about 10 million years ago. This activity reached a climax about 1.5 million years ago with a series of explosive rhyolitic eruptions that dropped hundreds of meters of volcanic ash for miles surrounding the caldera, and gave the surrounding area its distinctive landscapes of pink and white tuff overlaying the black basalts of the Rio Grande Rift. In the millennia following the Caldera's explosive creation, natural processes of erosion and weathering carved vibrant canyons and left piñion topped mesa stretching like fingers away from the massive caldera. As the great valley was drained of magma, and later a caldera lake, it filled with the diversity of plants and wildlife that makes the area so valuable to biologists and ecologists today. With such resources and natural beauty, it is no wonder that for millennia people have also been an integral part Valle Grande.

For generations innumerable, the Valles Caldera has been a part of life for the Pueblo Tribes of northern New Mexico. Today, the caldera continues to have important cultural and religious significance, something that must and will be respected and protected as the preserve moves into the management of the National Park Service.

In recent centuries, the Valles Caldera has been often in private ownership beginning with Spanish settlers who introduced livestock to the grassy valleys that continue to fatten elk and cattle in the summer months. Recognizing the unique national significance of the caldera, the Federal Government finally purchased the area in 2000 through the Valles Caldera Preservation Act, which I was proud to help shepherd through Congress with Senator BINGAMAN and then-Senator Domenici. The subsequent creation of the Valles Caldera National Preserve included the creation of a board of directors and the Valles Caldera Trust to manage the area. The legislation also included mandates for stakeholder involvement and eventual financial self-sufficiency of the preserve.

As Senator BINGAMAN and I take steps today to begin a transition of the Valles Caldera into the National Park System, I want to applaud the decade of work that both the Board of Trustees and the Valles Caldera Trust have dedicated to the preserve. I especially want to highlight the contributions of individual employees who have been on the ground in the caldera, day after day, developing research programs that utilize the unmatched natural resources of the caldera, managing cattle grazing and expanding the livestock program to include cutting edge scientific research, and extending educational opportunities in the caldera to students from across state and the country.

With the heavy mandate of self-sufficiency looming and the annual struggle to get sufficient funding for the caldera, Senator BINGAMAN and I are proposing a new direction forward. As a new unit of the National Park Service, the National Preserve will have a sustainable future with greater access to the public.

Since 1939, the National Park Service has conducted numerous studies of the Valles Caldera. In each, the Park Service consistently deemed the area of significant national value because of its unique and unaltered geology, and its singular setting, which are conducive to public recreation, reflection, education, and research. With this legislation the Secretary of Interior is directed to continue the longstanding grazing, education, and hunting programs that so many New Mexicans value as a once-ina-lifetime opportunity. By utilizing the resources and skills within the National Park Service, I believe the Valles Caldera National Preserve will continue to prosper as a natural wonder full of significant geology, ecology, history, and culture.

The Valle Grande is truly that: a great valley that so very many New Mexicans value and feel connected to. The future of the preserve is of utmost importance to us in New Mexico, and also has significance nationally. I look forward to working with Senator BINGAMAN and all of the stakeholders who care about the future of this preserve to ensure that this legislation emerges from the legislative process with improvements that are supported by my colleagues in the Senate and—most importantly—by the people of New Mexico.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 541—DESIGNATING JUNE 27, 2010, AS ''NATIONAL POST-TRAUMATIC STRESS DISORDER AWARENESS DAY''

Mr. CONRAD submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 541

Whereas the brave men and women of the United States Armed Forces, who proudly serve the United States, risk their lives to protect the freedom of the United States and deserve the investment of every possible resource to ensure their lasting physical, mental, and emotional well-being;

Whereas 12 percent of Operation Iraqi Freedom veterans, 11 percent of Operation Enduring Freedom veterans, 10 percent of Operation Desert Storm veterans, 30 percent of Vietnam veterans, and at least 8 percent of the general population of the United States suffers from Post Traumatic Stress Disorder (referred to in this preamble as ''PTSD'');

Whereas the incidence of PTSD in members of the military is rising as the United States Armed Forces conducts 2 wars, exposing hundreds of thousands of soldiers to traumatic life-threatening events;

Whereas women, who are more than twice as likely to experience PTSD than men, are increasingly engaged in direct combat on the front lines, putting these women at even greater risk of PTSD;

Whereas—

(1) from 2003 to 2007, approximately 40,000 Department of Defense patients were diagnosed with PTSD; and

(2) from 2000 to 2009—

(A) more than 5,000 individuals were hospitalized with a primary diagnosis of PTSD; and

(B) more than 500,000 individuals were treated for PTSD in outpatient visits;

Whereas PTSD significantly increases the risk of depression, suicide, and drug and alcohol related disorders and deaths;

Whereas the Departments of Defense and Veterans Affairs have made significant advances in the prevention, diagnosis, and treatment of PTSD and the symptoms of PTSD, but many challenges remain; and

Whereas the establishment of a National Post-Traumatic Stress Disorder Awareness Day will raise public awareness about issues related to PTSD: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 27, 2010, as ''National Post-Traumatic Stress Disorder Awareness Day'';

(2) urges the Secretary of Veterans Affairs and the Secretary of Defense to continue working to educate servicemembers, veterans, the families of servicemembers and veterans, and the public about the causes, symptoms, and treatment of post-traumatic stress disorder; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the Secretary of Veterans Affairs and the Secretary of Defense.

Mr. CONRAD. Mr. President, today I am submitting a Senate resolution to designate June 27, 2010, as National Post-Traumatic Stress Disorder Awareness Day. That date was inspired by the birthday of North Dakota National Guard Staff Sergeant Joe Biel. Staff Sergeant Biel served two tours of duty in Iraq as a Trailblazer, part of a unit responsible for route clearance operations. Each day, Joe's mission was to go out with his unit every day to find and remove Improvised Explosive Devices and other dangers from heavily traveled roads to make it safe for coalition forces and Iraqi civilians to travel. As a result of those experiences, Joe suffered from PTSD and, tragically, took his own life in April 2007. There is absolutely no doubt that Joe Biel is a hero who gave his life for our country.

I learned of Joe's story because friends from his platoon, the 4th Platoon, A Company, of the North Dakota National Guard's 164th Combat Engineer Battalion, have organized an annual motorcycle ride across the state of North Dakota in his memory. The Joe Biel Memorial Ride serves as a reunion for the 164th, a memorial for a lost friend, and a beacon to those suffering from PTSD and other mental issues across the region. The key point made to me by the event's organizer, Staff Sergeant Matt Leaf, is that we have to raise awareness of this disease so that the lives of servicemembers, veterans, and other PTSD sufferers can be by greater awareness of and treatment for this disorder.

For many, the war does not end when the warrior comes home. All too many servicemembers and veterans face PTSD symptoms like anxiety, anger, and depression as they try to adjust to life after war. We cannot sweep these problems under the rug. PTSD is real. The Department of Defense and the Department of Veterans Affairs have made significant advances in the prevention, diagnosis, and treatment of PTSD and its symptoms, but many challenges yet remain. More must be done to inform and educate veterans, families and communities on the facts about this illness and the resources and treatments available. That is why SSG Leaf and his fellow Trailblazers started the Joe Biel Memorial Bike Ride. And that is why I am introducing this Resolution. These efforts are about letting our troops—past and present—know it's okay to come forward and say they need help. It's a sign of strength, not weakness, to seek assistance. It is my hope that this message will be heard. In the words of SSG Leaf, ''maybe if we all take a minute to listen, we can stop one more tragedy from ever happening again.''

Mr. President, I ask unanimous consent that a letter about Joe Biel be printed in the RECORD.

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

JOE BIEL MEMORIAL BIKE RIDE

On April 26th 2007 we lost one of the best soldiers the United States Military and the North Dakota Army National Guard had ever had the privilege of enlisting. Staff Sergeant Joseph Arthur Biel took his own life in Devils Lake North Dakota surrounded by his peers superiors and some of his best friends. He shot himself in the mouth while these people looked on and his last words were ''tell everybody I love them'' the shot was heard as far away as Fargo North Dakota. Specialist David Young was on the phone with SSG Matthew Leaf while standing directly in front of SSG Biel as he pulled the trigger. This was the most horrific and worst day of our lives. Tears did not stop for 3 days as Joe's platoon (4th platoon A Company 164 Combat Engineers) deployed upon the small town of Devils Lake North Dakota. Everybody was asking one question ''Why?''

Why we failed Joe Biel? Why we did not understand PTSD? Why so many of us have problems when we return from overseas? Why nobody wants to listen? Why nobody understands? Why we are afraid to talk about it? Why we think nobody cares? Why can't I get help? Why will nobody listen to me? These are the questions that race through our minds after this tragedy. We deserve and have earned the right to be understood. The answer is too simple. PTSD is real and it needs to be addressed now. With the help of fellow veterans, spouses, loved ones, the V.A. and our Government. Please take the time to listen too and understand this disorder and at the very least be made aware of how this is affecting our Veterans and our lives, not just those who have served but all of the fine citizens of the United States. Maybe if we all take a minute to listen we can stop one more tragedy from ever happening again.

Sincerely SSG Matthew James Leaf, North Dakota Army National Guard.

SENATE RESOLUTION 542—DESIGNATING JUNE 20, 2010, AS ''AMERICAN EAGLE DAY'', AND CELEBRATING THE RECOVERY AND RESTORATION OF THE BALD EAGLE, THE NATIONAL SYMBOL OF THE UNITED STATES

Mr. ALEXANDER (for himself, Mr. BYRD, Mr. CORKER, Mrs. BOXER, Mr. CRAPO, Mrs. FEINSTEIN, Mr. GREGG, Ms. LANDRIEU, Mr. BROWNBACK, and Mr. BAYH) submitted the following resolution; which was considered and agreed to:

S. RES. 542

Whereas on June 20, 1782, the bald eagle was officially designated as the national emblem of the United States by the founding fathers at the Second Continental Congress;

Whereas the bald eagle is the central image of the Great Seal of the United States;

Whereas the image of the bald eagle is displayed in the official seal of many branches and departments of the Federal Government, including—

(1) the Office of the President;

(2) the Office of the Vice President;

(3) Congress;

(4) the Supreme Court;

(5) the Department of the Treasury;

(6) the Department of Defense;

(7) the Department of Justice;

(8) the Department of State;

(9) the Department of Commerce;

(10) the Department of Homeland Security;

(11) the Department of Veterans Affairs;

(12) the Department of Labor;

(13) the Department of Health and Human Services;

(14) the Department of Energy;

(15) the Department of Housing and Urban Development;

(16) the Central Intelligence Agency; and

(17) the Postal Service;

Whereas the bald eagle is an inspiring symbol of—

(1) the spirit of freedom; and

(2) the democracy of the United States;

Whereas, since the founding of the Nation, the image, meaning, and symbolism of the bald eagle have played a significant role in the art, music, history, commerce, literature, architecture, and culture of the United States;

Whereas the bald eagle is prominently featured on the stamps, currency, and coinage of the United States;

Whereas the habitat of bald eagles exists only in North America;

Whereas, by 1963, the population of bald eagles that nested in the lower 48 States had declined to approximately 417 nesting pairs;

Whereas, due to the dramatic decline in the population of bald eagles in the lower 48 States, the Secretary of the Interior listed the bald eagle as an endangered species on the list of endangered species published under section 4(c)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(1));

Whereas caring and concerned individuals from the Federal, State, and private sectors banded together to save, and help ensure the recovery and protection of, bald eagles;

Whereas, on July 20, 1969, the first manned lunar landing occurred in the Apollo 11 Lunar Excursion Module, which was named ''Eagle'';

Whereas the ''Eagle'' played an integral role in achieving the goal of the United States of landing a man on the Moon and returning that man safely to Earth;

Whereas, in 1995, as a result of the efforts of those caring and concerned individuals, the Secretary of the Interior listed the bald eagle as a threatened species on the list of threatened species published under section 4(c)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(1));

Whereas, by 2007, the population of bald eagles that nested in the lower 48 States had increased to approximately 10,000 nesting pairs, an increase of approximately 2,500 percent from the preceding 40 years;

Whereas, in 2007, the population of bald eagles that nested in the State of Alaska was approximately 50,000 to 70,000;

Whereas, on June 28, 2007, the Secretary of the Interior removed the bald eagle from the list of threatened species published under section 4(c)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(1));

Whereas bald eagles remain protected in accordance with—

(1) the Act of June 8, 1940 (16 U.S.C. 668 et seq.) (commonly known as the ''Bald Eagle Protection Act of 1940''); and

(2) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

Whereas, on January 15, 2008, the Secretary of the Treasury issued 3 limited edition bald

eagle commemorative coins under the American Bald Eagle Recovery and National Emblem Commemorative Coin Act (Public Law 108-486; 118 Stat. 3934);

Whereas the sale of the limited edition bald eagle commemorative coins issued by the Secretary of the Treasury has raised approximately $7,800,000 for the nonprofit American Eagle Foundation of Pigeon Forge, Tennessee to support efforts to protect the bald eagle;

Whereas, if not for the vigilant conservation efforts of concerned Americans and the enactment of strict environmental protection laws (including regulations) the bald eagle would probably be extinct;

Whereas the American Eagle Foundation has brought substantial public attention to the cause of the protection and care of the bald eagle nationally;

Whereas November 4, 2010, marks the 25th anniversary of the American Eagle Foundation;

Whereas the dramatic recovery of the population of bald eagles—

(1) is an endangered species success story; and

(2) an inspirational example for other wildlife and natural resource conservation efforts around the world;

Whereas the initial recovery of the population of bald eagles was accomplished by the concerted efforts of numerous government agencies, corporations, organizations, and individuals; and

Whereas the continuation of recovery, management, and public awareness programs for bald eagles will be necessary to ensure—

(1) the continued progress of the recovery of bald eagles; and

(2) that the population and habitat of bald eagles will remain healthy and secure for future generations: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 20, 2010, as ''American Eagle Day'';

(2) applauds the issuance of bald eagle commemorative coins by the Secretary of the Treasury as a means by which to generate critical funds for the protection of bald eagles; and

(3) encourages—

(A) educational entities, organizations, businesses, conservation groups, and government agencies with a shared interest in conserving endangered species to collaborate and develop educational tools for use in the public schools of the United States; and

(B) the people of the United States to observe American Eagle Day with appropriate ceremonies and other activities.

SENATE RESOLUTION 543—EXPRESSING SUPPORT FOR THE DESIGNATION OF A NATIONAL PRADER-WILLI SYNDROME AWARENESS MONTH TO RAISE AWARENESS OF AND PROMOTE RESEARCH ON THE DISORDER.

Mr. MENENDEZ (for himself, Mr. LEAHY, and Mr. CARDIN) submitted the following resolution; which was considered and agreed to.

S. RES. 543

Whereas Prader-Willi syndrome is a complex genetic disorder that occurs in approximately 1 out of every 15,000 births;

Whereas Prader-Willi syndrome is the most commonly known genetic cause of life-threatening obesity;

Whereas Prader-Willi syndrome affects—

(1) males and females with equal frequency; and

(2) all races and ethnicities;

Whereas Prader-Willi syndrome causes an extreme and insatiable appetite, often resulting in morbid obesity;

Whereas morbid obesity is the major cause of death for individuals with the Prader-Willi syndrome;

Whereas Prader-Willi syndrome causes cognitive and learning disabilities and behavioral difficulties, including obsessive-compulsive disorder and difficulty controlling emotions;

Whereas the hunger, metabolic, and behavioral characteristics of Prader-Willi syndrome force affected individuals to require constant and lifelong supervision in a controlled environment;

Whereas studies have shown that individuals with Prader-Willi syndrome have a high morbidity and mortality rate;

Whereas there is no known cure for Prader-Willi syndrome;

Whereas early diagnosis of Prader-Willi syndrome allows families to access treatment, intervention services, and support from health professionals, advocacy organizations, and other families who are dealing with the syndrome;

Whereas recently discovered treatments, including the use of human growth hormone, are improving the quality of life for individuals with the syndrome and offer new hope to families, but many difficult symptoms associated with Prader-Willi syndrome remain untreated;

Whereas increased research into Prader-Willi syndrome—

(1) may lead to a better understanding of the disorder, more effective treatments, and an eventual cure for Prader-Willi syndrome; and

(2) is likely to lead to a better understanding of common public health concerns, including childhood obesity and mental health; and

Whereas advocacy organizations have designated May as Prader-Willi Syndrome Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports raising awareness and educating the public about Prader-Willi syndrome;

(2) applauds the efforts of advocates and organizations that encourage awareness, promote research, and provide education, support, and hope to those impacted by Prader-Willi syndrome;

(3) recognizes the commitment of parents, families, researchers, health professionals, and others dedicated to finding an effective treatment and eventual cure for Prader-Willi syndrome; and

(4) expresses support for the designation of a National Prader-Willi Syndrome Awareness Month.

SENATE RESOLUTION 544—SUPPORTING INCREASED MARKET ACCESS FOR EXPORTS OF UNITED STATES BEEF AND BEEF PRODUCTS

Mr. BAUCUS (for himself, Mr. JOHANNS, Mrs. LINCOLN, Mrs. MURRAY, Mr. NELSON of Nebraska, Ms. KLOBUCHAR, Mr. BENNET, Mr. BINGAMAN, and Mr. ROBERTS) submitted the following resolution; which was considered and agreed to:

S. RES. 544

Whereas in 2003, United States beef exports to China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam were valued at $3,300,000,000.

Whereas after the discovery of 1 Canadian-born cow infected with bovine spongiform encephalopathy (BSE) disease in the State of Washington in December 2003, China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam, among others, closed their markets to United States beef;

Whereas for years the Government of the United States has developed and implemented a multilayered system of interlocking safeguards to ensure the safety of United States beef, and after the 2003 discovery, the United States implemented further safeguards to ensure beef safety;

Whereas a 2006 study by the United States Department of Agriculture found that BSE was virtually nonexistent in the United States;

Whereas the internationally recognized standard-setting body, the World Organization for Animal Health (OIE), has classified the United States as a controlled risk country for BSE, which means that all United States beef and beef products from cattle of all ages is safe for export and consumption;

Whereas China continues to prohibit imports of all beef and beef products from the United States;

Whereas Japan has opened its market for United States exporters of beef and beef products from cattle less than 21 months of age, but has not yet opened its market for all United States beef and beef products from cattle of all ages;

Whereas Hong Kong has opened its market for United States exporters of deboned beef from cattle less than 30 months of age, but has not yet opened its market for all United States beef and beef products from cattle of all ages;

Whereas Taiwan has opened its market for United States exporters of deboned and bone-in beef and certain offal products from cattle less than 30 months of age and has agreed to open, but has not yet opened, its market for all United States beef and beef products from cattle of all ages;

Whereas South Korea has opened its market for United States exporters of beef and beef products from cattle less than 30 months of age and has agreed to open eventually, but has not yet opened, its market for all United States beef and beef products from cattle of all ages;

Whereas Mexico has opened its market for United States exporters of deboned and bone-in beef and certain offal from cattle less than 30 months of age, but has not yet opened its market for all United States beef and beef products from cattle of all ages;

Whereas Vietnam has opened its market for United States exporters of beef and beef products from cattle less than 30 months of age, but has not yet opened its market for all United States beef and beef products from cattle of all ages;

Whereas between 2004 through 2009, United States beef exports declined due to these restrictions, causing significant revenue losses for United States cattle producers, for example, United States beef exports to Japan and South Korea averaged less than 15 percent of the amount the United States sold to Japan and South Korea in 2003; and

Whereas, while China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam remain important trading partners of the United States, unscientific trade restrictions are not consistent with their trade obligations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) sanitary measures affecting trade in beef and beef products between the United States and China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam should be based on science;

(2) since banning United States beef in December 2003, China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam

have, to varying degrees, failed to comply with internationally recognized scientific guidelines with respect to United States beef and beef products

(3) China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam should fully comply with internationally recognized scientific guidelines;

(4) China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam should open their markets to United States exporters of all beef and beef products from cattle of all ages, consistent with OIE guidelines; and

(5) the President should continue to insist on full access for United States exporters of beef and beef products to the markets in China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam.

SENATE RESOLUTION 545—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 545

Whereas, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs conducted an investigation into Wall Street and the financial crisis of 2008, examining the role of mortgage lenders, bank regulators, credit rating agencies, and investment banks in causing the crisis;

Whereas, the Subcommittee has received requests from federal and state government entities for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved. That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs, acting jointly, are authorized to provide to law enforcement officials, regulatory agencies, and other entities or individuals duly authorized by federal, state, or foreign governments, records of the Subcommittee's investigation into Wall Street and the financial crisis of 2008, examining the role of mortgage lenders, bank regulators, credit rating agencies, and investment banks in causing the crisis.

SENATE CONCURRENT RESOLUTION 64—HONORING THE 28TH INFANTRY DIVISION FOR SERVING AND PROTECTING THE UNITED STATES

Mr. CASEY (for himself and Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 64

Whereas the 28th Infantry Division was established on October 11, 1879, and is recognized as the oldest, continuously serving division in the Army;

Whereas units of the 28th Infantry Division date back to 1747, when Benjamin Franklin organized a battalion in Philadelphia;

Whereas units of the 28th Infantry Division served in the Revolutionary War, including units that served with distinction in the Continental Army under General George Washington;

Whereas the 28th Infantry Division was integral to the success of World War I campaigns in the European theater, including those in Champagne, Champagne-Marne, Aisne-Marne, Oise Marne, Lorraine, and Mesuse-Argone;

Whereas the 28th Infantry Division earned the title of ''Iron Division'' by General John J. Pershing for the valiant efforts of the Division during World War I;

Whereas the 28th Infantry Division contributed to military operations in Normandy, Northern France, Rhineland, Ardennes-Alsace, and Central Europe during World War II;

Whereas the perseverance of the 28th Infantry Division throughout the harsh winter spanning from 1944 to 1945 on the western front led to a decisive victory in the Battle of the Huertgen Forest, the longest single battle engaged in by the Army;

Whereas soon after the Battle of the Huertgen Forest, the 28th Infantry Division withstood the onslaught of the main thrust of the last great German offensive during the Battle of the Bulge, giving time for reinforcements to arrive and defeat the Germans;

Whereas the 28th Infantry Division was activated again in 1950 to serve in Germany;

Whereas the 28th Infantry Division was folded into the Army Selective Reserve Force during the Vietnam War;

Whereas the 28th Infantry Division aided relief efforts throughout the devastating aftermath of Hurricane Agnes in 1972;

Whereas the 28th Infantry Division was called to action during the partial meltdown of the nuclear reactor of the Three Mile Island Nuclear Generating Station in 1979;

Whereas the 28th Infantry Division contributed to the international coalition forces, facilitating efforts in Operation Desert Storm;

Whereas the 28th Infantry Division has been part of peacekeeping missions in Bosnia-Herzegovina, the Republic of Kosovo, and the Sinai Peninsula;

Whereas the 28th Infantry Division has deployed troops as part of Operation Noble Eagle, securing high-profile infrastructure targets in the aftermath of the September 11, 2001, attacks;

Whereas the 28th Infantry Division has deployed troops to Afghanistan as part of Operation Enduring Freedom, which ousted the Taliban regime and has since helped to secure the country and bring humanitarian relief to the Afghan people;

Whereas in Operation Iraqi Freedom, the 28th Infantry Division played a crucial role in the search for weapons of mass destruction, the invasion of Iraq, the provision of security in post-invasion Iraq, the training of an Iraqi police force, the securing of transport convoys, and the safe detainment of suspected terrorists;

Whereas more than 2,600 soldiers of the 28th Infantry Division remain missing in action from World War I and World War II;

Whereas the 28th Infantry Division has 127 units in 90 armories in 75 cities across the Commonwealth of Pennsylvania;

Whereas the 28th Infantry Division has been sent to aid portions of the United States affected by harsh winter storms, flooding, violent windstorms, and other severe weather emergencies; and

Whereas 10 recipients of the Medal of Honor, 4 recipients of the Legion of Merit, and 258 recipients of the Silver Star have been members of the 28th Infantry Division: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the 28th Infantry Division for serving and protecting the United States; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Adjutant General of the Pennsylvania National Guard for appropriate display.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4296. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4274 submitted by Mr. BURR and intended to be proposed to the bill H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 4297. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4275 submitted by Mr. BURR and intended to be proposed to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4298. Mr. NELSON of Florida (for himself and Mr. SHELBY) submitted an amendment intended to be proposed to amendment SA 4234 proposed by Ms. LANDRIEU to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4299. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra.

TEXT OF AMENDMENTS

SA 4296. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4274 submitted by Mr. BURR and intended to be proposed to the bill H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table, as follows:

On page 1, strike line 3 and all that follows through line 6 and insert the following:

''Filipino Veterans Equity Compensation Fund'' account and such other unobligated amounts as the Secretary of Veterans Affairs considers appropriate may be transferred to the ''Medical Services'' account: *Provided*, That any amount transferred from ''Construction, Major Projects'' shall be derived from unobligated balances that are a direct result of bid savings: *Provided further*, That amounts transferred to the ''Medical Services'' account are

SA 4297. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4275 submitted by Mr. BURR and intended to be proposed to the bill H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table, as follows:

On page 1, strike line 6 and all that follows through line 7 and insert the following:

fiscal years, $67,000,000 of the unobligated balances that are a direct result of bid savings may be transferred to the ''Filipino Veterans Equity Compensation Fund'' account

and any remaining amounts of such unobligated balances not transferred to the ''Filipino Veterans Equity Compensation Fund'' account may be used by the Secretary of Vet-

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SA 4298. Mr. NELSON of Florida (for himself and Mr. SHELBY) submitted an amendment intended to be proposed to amendment SA 4234 proposed by Ms. LANDRIEU to the bill H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table, as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Economic Development Assistance Programs'', to carry out planning, technical assistance and other assistance under section 209, and consistent with section 703(b), of the Public Works and Economic Development Act (42 U.S.C. 3149, 3233), in States affected by the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $10,000,000, to remain available until expended, of which not less than $5,000,000 shall be used to provide technical assistance grants in accordance with section 2002.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', $13,000,000, to remain available until expended, for responding to economic impacts on fishermen and fishery-dependent businesses: *Provided*, That the amounts appropriated herein are not available unless the Secretary of Commerce determines that resources provided under other authorities and appropriations including by the responsible parties under the Oil Pollution Act, 33 U.S.C. 2701, et seq., are not sufficient to respond to economic impacts on fishermen and fishery-dependent business following an incident related to a spill of national significance declared under the National Contingency Plan provided for under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', for activities undertaken including scientific investigations and sampling as a result of the incidents related to the discharge of oil and the use of oil dispersants that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $7,000,000, to remain available until expended. These activities may be funded through the provision of grants to universities, colleges and other research partners through extramural research funding.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', Food and Drug Administration, Department of Health and Human Services, for food safety monitoring and response activities in connection with the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $2,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Office of the Secretary, Salaries and Expenses'' for increased inspections, enforcement, investigations, environmental and engineering studies, and other activities related to emergency offshore oil spill incidents in the Gulf of Mexico, $29,000,000, to remain available until expended: *Provided*, That such funds may be transferred by the Secretary to any other account in the Department of the Interior to carry out the purposes provided herein.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $10,000,000, to remain available until expended, for litigation expenses resulting from incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for ''Science and Technology'' for a study on the potential human and environmental risks and impacts of the release of crude oil and the application of dispersants, surface washing agents, bioremediation agents, and other mitigation measures listed in the National Contingency Plan Product List (40 C.F.R. Part 300 Subpart J), as appropriate, $2,000,000, to remain available until expended: *Provided*, That the study shall be performed at the direction of the Administrator of the Environmental Protection Agency, in coordination with the Secretary of Commerce and the Secretary of the Interior: *Provided further*, That the study may be funded through the provision of grants to universities and colleges through extramural research funding.

GENERAL PROVISION—THIS TITLE

DEEPWATER HORIZON

SEC. 2001.

(a) IN GENERAL.—Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752) is amended in the second sentence:

(1) by inserting '': (1)'' before ''may obtain an advance'' and after ''the Coast Guard'';

(2) by striking ''advance. Amounts'' and inserting the following: ''advance; (2) in the case of discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, may, without further appropriation, obtain one or more advances from the Oil Spill Liability Trust Fund as needed, up to a maximum of $100,000,000 for each advance, the total amount of all advances not to exceed the amounts available under section 9509(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 9509(c)(2)), and within 7 days of each advance, shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance; and (3) amounts''.

(b) ASSESSMENT OF ENVIRONMENTAL IMPACTS.—

(1) DEFINITIONS.—In this subsection:

(A) DEEPWATER HORIZON OIL DISCHARGE.—The term ''Deepwater Horizon oil discharge'' means the discharge of oil and the use of oil dispersants that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon in the Gulf of Mexico.

(B) RESPONSIBLE PARTY.—The term ''responsible party'' means a responsible party (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) with respect to the Deepwater Horizon oil discharge.

(2) APPROPRIATIONS OF FUNDS.—

(A) IN GENERAL.—For an additional amount, in addition to amounts provided elsewhere in this Act for ''Operations, Research, and Facilities'' of the National Oceanic and Atmospheric Administration, $22,400,000 to carry out enhanced fisheries data collection in the Gulf of Mexico to assess environmental impacts related to the Deepwater Horizon oil discharge.

(B) GRANTS TO FISHERMEN.—Of the amount appropriated under subparagraph (A), $5,000,000 shall be available to provide cooperative research grants to fishermen to collect data to establish ecosystem baselines to assist managers in fully understanding the extent of the damage that resulted from the Deepwater Horizon oil discharge.

(3) LIABILITY AND REIMBURSEMENT.—Notwithstanding any limitation on liability under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) or any other provision of law, each responsible party shall, upon the demand of the Secretary of the Treasury, reimburse the general fund of the Treasury for the amount appropriated pursuant to paragraph (2).

SEC. 2002. FUNDING FOR ENVIRONMENTAL AND FISHERIES IMPACTS.

(a) DEFINITIONS.—In this section:

(1) DEEPWATER HORIZON OIL DISCHARGE.—The term ''Deepwater Horizon oil discharge'' means the discharge of oil and the use of oil dispersants that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon in the Gulf of Mexico.

(2) OIL SPILL LIABILITY TRUST FUND.—The term ''Oil Spill Liability Trust Fund'' means the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

(3) RESPONSIBLE PARTY.—The term ''responsible party'' means a responsible party (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) with respect to the Deepwater Horizon oil discharge.

(b) AVAILABILITY OF FUNDS.—Notwithstanding any provision of section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), amounts from the Oil Spill Liability Trust Fund shall be made available for the following purposes:

(1) FISHERIES DISASTER RELIEF.—For an additional amount, in addition to other amounts provided in this Act for the National Oceanic and Atmospheric Administration, $20,000,000 to be available to provide fisheries disaster relief under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a) related to a commercial fishery failure due to a fishery resource disaster in the Gulf of Mexico that resulted from the Deepwater Horizon oil discharge.

(2) EXPANDED STOCK ASSESSMENT OF FISHERIES.—For an additional amount, in addition to other amounts provided in this Act for the National Oceanic and Atmospheric Administration, $15,000,000 to conduct an expanded stock assessment of the fisheries of the Gulf of Mexico. Such expanded stock assessment shall include an assessment of the commercial and recreational catch and biological sampling, observer programs, data

management and processing activities, the conduct of assessments, and follow-up evaluations of such fisheries.

(3) ECOSYSTEM SERVICES IMPACTS STUDY.—For an additional amount, in addition to other amounts provided for the Department of Commerce, $1,000,000 to be available for the National Academy of Sciences to conduct a study of the long-term ecosystem service impacts of the Deepwater Horizon oil discharge. Such study shall assess long-term costs to the public of lost water filtration, hunting, and fishing (commercial and recreational), and other ecosystem services associated with the Gulf of Mexico.

(c) LIABILITY AND REIMBURSEMENT.—Notwithstanding any limitation on liability under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) or any other provision of law, each responsible party shall, upon the demand of the Secretary of the Treasury, reimburse the Oil Spill Liability Trust Fund for the amounts made available pursuant to subsection (b).

SEC. 2003. OIL SPILL CLAIMS ASSISTANCE AND RECOVERY.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Commerce (referred to in this section as the ''Secretary'') shall establish a grant program to provide to eligible (as determined by the Secretary) organizations technical assistance grants for use in assisting individuals and businesses affected by the Deepwater Horizon oil spill in the Gulf of Mexico (referred to in this section as the ''oil spill'').

(b) APPLICATION.—An organization that seeks to receive a grant under this section shall submit to the Secretary an application for the grant at such time, in such form, and containing such information as the Secretary shall require.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds from a grant provided under this section may be used by an eligible organization—

(A) to support—

(i) education;

(ii) outreach;

(iii) intake;

(iv) language services;

(v) accounting services;

(vi) legal services offered pro bono or by a nonprofit organization;

(vii) damage assessments;

(viii) economic loss analysis;

(ix) collecting and preparing documentation; and

(x) assistance in the preparation and filing of claims or appeals;

(B) to provide assistance to individuals or businesses seeking assistance from or under—

(i) a party responsible for the oil spill;

(ii) the Oil Spill Liability Trust Fund;

(iii) an insurance policy; or

(iv) any other program administered by the Federal Government or a State or local government;

(C) to pay for salaries, training, and appropriate expenses relating to the purchase or lease of property to support operations, equipment (including computers and telecommunications), and travel expenses;

(D) to assist other organizations in—

(i) assisting specific business sectors;

(ii) providing services;

(iii) assisting specific jurisdictions; or

(iv) otherwise supporting operations; and

(E) to establish an advisory board of service providers and technical experts—

(i) to monitor the claims process relating to the oil spill; and

(ii) to provide recommendations to the parties responsible for the oil spill, the National Pollution Funds Center, other appropriate agencies, and Congress to improve fairness and efficiency in the claims process.

(2) PROHIBITION ON USE OF FUNDS.—Funds from a grant provided under this section may not be used to provide compensation for damages or removal costs relating to the oil spill.

(d) PROVISION OF GRANTS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall provide grants under this section.

(2) NETWORKED ORGANIZATIONS.—The Secretary is encouraged to consider applications for grants under this section from organizations that have established networks with affected business sectors, including—

(A) the fishery and aquaculture industries;

(B) the restaurant, grocery, food processing, and food delivery industries; and

(C) the hotel and tourism industries.

(3) TRAINING.—Not later than 30 days after the date on which an eligible organization receives a grant under this section, the Director of the National Pollution Funds Center and the parties responsible for the oil spill shall provide training to the organization regarding the applicable rules and procedures for the claims process relating to the oil spill.

(4) AVAILABILITY OF FUNDS.—Funds from a grant provided under this section shall be available until the later of, as determined by the Secretary—

(A) the date that is 6 years after the date on which the oil spill occurred; and

(B) the date on which all claims relating to the oil spill have been satisfied.

SEC. 2004. GULF OF MEXICO RESTORATION AND PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Gulf of Mexico Restoration and Protection Act''.

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the Gulf of Mexico is a valuable resource of national and international importance, continuously serving the people of the United States and other countries as an important source of food, economic productivity, recreation, beauty, and enjoyment;

(B) over many years, the resource productivity and water quality of the Gulf of Mexico and its watershed have been diminished by point and nonpoint source pollution;

(C) the United States should seek to attain the protection and restoration of the Gulf of Mexico ecosystem as a collaborative regional goal of the Gulf of Mexico Program; and

(D) the Administrator of the Environmental Protection Agency, in consultation with other Federal agencies and State and local authorities, should coordinate the effort to meet those goals.

(2) PURPOSES.—The purposes of this section are—

(A) to expand and strengthen cooperative voluntary efforts to restore and protect the Gulf of Mexico;

(B) to expand Federal support for monitoring, management, and restoration activities in the Gulf of Mexico and its watershed;

(C) to commit the United States to a comprehensive cooperative program to achieve improved water quality in, and improvements in the productivity of living resources of, the Gulf of Mexico; and

(D) to establish a Gulf of Mexico Program to serve as a national and international model for the collaborative management of large marine ecosystems.

(c) GULF OF MEXICO RESTORATION AND PROTECTION.—Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

''SEC. 123. GULF OF MEXICO RESTORATION AND PROTECTION.

''(a) DEFINITIONS.—In this section;

''(1) GULF OF MEXICO ECOSYSTEM.—The term 'Gulf of Mexico ecosystem' means the ecosystem of the Gulf of Mexico and its watershed.

''(2) GULF OF MEXICO EXECUTIVE COUNCIL.—The term 'Gulf of Mexico Executive Council' means the formal collaborative Federal, State, local, and private participants in the Program.

''(3) PROGRAM.—The term 'Program' means the Gulf of Mexico Program established by the Administrator in 1988 as a nonregulatory, inclusive partnership to provide a broad geographic focus on the primary environmental issues affecting the Gulf of Mexico.

''(4) PROGRAM OFFICE.—The term 'Program Office' means the office established by the Administrator to administer the Program that is reestablished by subsection (b)(1)(A).

''(b) CONTINUATION OF GULF OF MEXICO PROGRAM.—

''(1) GULF OF MEXICO PROGRAM OFFICE.—

''(A) REESTABLISHMENT.—The Program Office established before the date of enactment of this section by the Administrator is reestablished as an office of the Environmental Protection Agency.

''(B) REQUIREMENTS.—The Program Office shall be—

''(i) headed by a Director who, by reason of management experience and technical expertise relating to the Gulf of Mexico, is highly qualified to direct the development of plans and programs on a variety of Gulf of Mexico issues, as determined by the Administrator; and

''(ii) located in a State all or a portion of the coastline of which is on the Gulf of Mexico.

''(C) FUNCTIONS.—The Program Office shall—

''(i) coordinate the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies—

''(I) to improve the water quality and living resources in the Gulf of Mexico ecosystem; and

''(II) to obtain the support of appropriate officials;

''(ii) in cooperation with appropriate Federal, State, and local authorities, assist in developing and implementing specific action plans to carry out the Program;

''(iii) coordinate and implement priority State-led and community-led restoration plans and projects, and facilitate science, research, modeling, monitoring, data collection, and other activities that support the Program through the provision of grants under subsection (d);

''(iv) implement outreach programs for public information, education, and participation to foster stewardship of the resources of the Gulf of Mexico;

''(v) develop and make available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Gulf of Mexico ecosystem;

''(vi) serve as the liaison with, and provide information to, the Mexican members of the Gulf of Mexico States Accord and Mexican counterparts of the Environmental Protection Agency; and

''(vii) focus the efforts and resources of the Program Office on activities that will result in measurable improvements to water quality and living resources of the Gulf of Mexico ecosystem.

''(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into 1 or more interagency agreements with other Federal agencies to carry out this section.

''(d) GRANTS.—

''(1) IN GENERAL.—In accordance with the Program, the Administrator, acting through the Program Office, may provide grants to

nonprofit organizations, State and local governments, colleges, universities, interstate agencies, and individuals to carry out this section for use in—

''(A) monitoring the water quality and living resources of the Gulf of Mexico ecosystem;

''(B) researching the effects of natural and human-induced environmental changes on the water quality and living resources of the Gulf of Mexico ecosystem;

''(C) developing and executing cooperative strategies that address the water quality and living resource needs in the Gulf of Mexico ecosystem;

''(D) developing and implementing locally based protection and restoration programs or projects within a watershed that complement those strategies, including the creation, restoration, protection, or enhancement of habitat associated with the Gulf of Mexico ecosystem; and

''(E) eliminating or reducing nonpoint sources that discharge pollutants that contaminate the Gulf of Mexico ecosystem, including activities to eliminate leaking septic systems and construct connections to local sewage systems.

''(2) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using a grant provided under this section shall not exceed 75 percent, as determined by the Administrator.

''(3) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects carried out using funds made available through a grant under this subsection shall not exceed 15 percent of the amount of the grant.

''(e) REPORTS.—

''(1) ANNUAL REPORT.—Not later than December 30, 2009, and annually thereafter, the Director of the Program Office shall submit to the Administrator and make available to the public a report that describes—

''(A) each project and activity funded under this section during the previous fiscal year;

''(B) the goals and objectives of those projects and activities; and

''(C) the net benefits of projects and activities funded under this section during previous fiscal years.

''(2) ASSESSMENT.—

''(A) IN GENERAL.—Not later than April 30, 2011, and every 5 years thereafter, the Administrator, in coordination with the Gulf of Mexico Executive Council, shall complete an assessment, and submit to Congress a comprehensive report on the performance, of the Program.

''(B) REQUIREMENTS.—The assessment and report described in subparagraph (A) shall—

''(i) assess the overall state of the Gulf of Mexico ecosystem;

''(ii) compare the current state of the Gulf of Mexico ecosystem with a baseline assessment;

''(iii) include specific measures to assess any improvements in water quality and living resources of the Gulf of Mexico ecosystem;

''(iv) assess the effectiveness of the Program management strategies being implemented, and the extent to which the priority needs of the region are being met through that implementation; and

''(v) make recommendations for the improved management of the Program, including strengthening strategies being implemented or adopting improved strategies.

''(f) BUDGET ITEM.—The Administrator, in the annual submission to Congress of the budget of the Environmental Protection Agency, shall include a funding line item request for the Program Office as a separate budget line item.

''(g) LIMITATION ON REGULATORY AUTHORITY.—Nothing in this section establishes any new legal or regulatory authority of the Administrator other than the authority to provide grants in accordance with this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

''(1) $10,000,000 for fiscal year 2010;

''(2) $15,000,000 for fiscal year 2011; and

''(3) $25,000,000 for each of fiscal years 2012 through 2014.''.

SA 4299. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 4899, making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 41, line 14, insert before the colon the following: ''or may be retained in the 'Construction, Major Projects' account and used by the Secretary of Veterans Affairs for such major medical facility projects (as defined under section 8104(a) of title 38, United States Code) that have been authorized by law as the Secretary considers appropriate''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on May 27, 2010, at 9:30 a.m. in room 328A of the Russell Senate Office Building.

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

COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 27, 2010, at 9:30 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 27, 2010, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 27, 2010.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Building a Secure Future for Multiemployer Pension Plans'' on May 27, 2010. The hearing will commence at 2 p.m., in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on May 27, 2010, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on May 27, 2010.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 27, 2010 at 2:30 p.m.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, be authorized to meet during the session of the Senate, on May 27, 2010, at 2:15 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The United/Continental Airlines Merger: How Will Consumers Fare?''

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

EXTENSION OF ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2004

Mr. DURBIN. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5330, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5330) to amend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate today will extend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004, ACPERA, for an additional 10 years. This legislation ensures that the Justice Department will have the tools it

needs to effectively prosecute criminal antitrust cartels for years to come. I thank Senator KOHL for his hard work in securing passage of this important legislation.

I have long supported vigorous enforcement of the antitrust laws. ACPERA provides a necessary complement to the Justice Department's highly successful corporate leniency program by limiting civil damages recoverable against a party who submits an application for leniency. Without this legislation, potential leniency applicants could be deterred from self-reporting antitrust violations that otherwise would result in significant criminal prosecutions.

I would have preferred that ACPERA be permanently reauthorized. Even so, a 10-year extension ensures that the Justice Department can still provide applicants with certainty that the rules of the game will not suddenly shift underneath them. ACPERA's incentives are critical to the Justice Department's criminal antitrust enforcement efforts, and I look forward to continuing to work to provide the Antitrust Division to ensure it has the resources necessary to protect consumers.

Mr. DURBIN. I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 5330) was ordered to be read a third time, was read the third time, and passed.

ORDER FOR PRINTING—H.R. 4173

Mr. DURBIN. I ask unanimous consent that H.R. 4173, as passed by the Senate on May 20, 2010, be printed.

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

AUTHORIZING PRODUCTION OF RECORDS

AMERICAN EAGLE DAY

SUPPORT FOR NATIONAL PRADER-WILLI SYNDROME AWARENESS MONTH

SUPPORTING INCREASED MARKET ACCESS FOR EXPORTS OF U.S. BEEF AND BEEF PRODUCTS

Mr. DURBIN. I ask unanimous consent that the Senate proceed to the en bloc consideration of the following Senate resolutions: S. Res. 542, S. Res. 543, S. Res. 544, and S. Res. 545.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. DURBIN. I ask unanimous consent the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid upon the table en bloc, and any statements related to the resolutions be printed in the RECORD.

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

Mr. REID. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has received requests from Federal and State government entities seeking access to records that the subcmmittee obtained during its recent investigation into Wall Street and the financial crisis of 2008, examining the role of mortgage lenders, bank regulators, credit rating agencies, and investment banks in causing the crisis.

S. Res. 545 would authorize the chairman and ranking minority member of the Permanent Subcommittee on Investigations, acting jointly, to provide records, obtained by the subcommittee in the course of its investigation, in response to these requests and to other government entities and officials with a legitimate need for the records.

The resolution (S. Res. 543) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 545

Whereas, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs conducted an investigation into Wall Street and the financial crisis of 2008, examining the role of mortgage lenders, bank regulators, credit rating agencies, and investment banks in causing the crisis;

Whereas, the Subcommittee has received requests from federal and state government entities for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs, acting jointly, are authorized to provide to law enforcement officials, regulatory agencies, and other entities or individuals duly authorized by federal, state, or foreign governments, records of the Subcommittee's investigation into Wall Street and the financial crisis of 2008, examining the role of mortgage lenders, bank regulators, credit rating agencies, and investment banks in causing the crisis.

The resolution (S. Res. 542) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 542

Whereas on June 20, 1782, the bald eagle was officially designated as the national emblem of the United States by the founding fathers at the Second Continental Congress;

Whereas the bald eagle is the central image of the Great Seal of the United States;

Whereas the image of the bald eagle is displayed in the official seal of many branches and departments of the Federal Government, including—

(1) the Office of the President;
(2) the Office of the Vice President;
(3) Congress;
(4) the Supreme Court;
(5) the Department of the Treasury;
(6) the Department of Defense;
(7) the Department of Justice;
(8) the Department of State;
(9) the Department of Commerce;
(10) the Department of Homeland Security;
(11) the Department of Veterans Affairs;
(12) the Department of Labor;
(13) the Department of Health and Human Services;
(14) the Department of Energy;
(15) the Department of Housing and Urban Development;
(16) the Central Intelligence Agency; and
(17) the Postal Service;

Whereas the bald eagle is an inspiring symbol of—

(1) the spirit of freedom; and
(2) the democracy of the United States;

Whereas, since the founding of the Nation, the image, meaning, and symbolism of the bald eagle have played a significant role in the art, music, history, commerce, literature, architecture, and culture of the United States;

Whereas the bald eagle is prominently featured on the stamps, currency, and coinage of the United States;

Whereas the habitat of bald eagles exists only in North America;

Whereas, by 1963, the population of bald eagles that nested in the lower 48 States had declined to approximately 417 nesting pairs;

Whereas, due to the dramatic decline in the population of bald eagles in the lower 48 States, the Secretary of the Interior listed the bald eagle as an endangered species on the list of endangered species published under section 4(c)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(1));

Whereas caring and concerned individuals from the Federal, State, and private sectors banded together to save, and help ensure the recovery and protection of, bald eagles;

Whereas, on July 20, 1969, the first manned lunar landing occurred in the Apollo 11 Lunar Excursion Module, which was named ''Eagle'';

Whereas the ''Eagle'' played an integral role in achieving the goal of the United States of landing a man on the Moon and returning that man safely to Earth;

Whereas, in 1995, as a result of the efforts of those caring and concerned individuals, the Secretary of the Interior listed the bald eagle as a threatened species on the list of threatened species published under section 4(c)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(1));

Whereas, by 2007, the population of bald eagles that nested in the lower 48 States had increased to approximately 10,000 nesting pairs, an increase of approximately 2,500 percent from the preceding 40 years;

Whereas, in 2007, the population of bald eagles that nested in the State of Alaska was approximately 50,000 to 70,000;

Whereas, on June 28, 2007, the Secretary of the Interior removed the bald eagle from the list of threatened species published under section 4(c)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(1));

Whereas bald eagles remain protected in accordance with—

(1) the Act of June 8, 1940 (16 U.S.C. 668 et seq.) (commonly known as the ''Bald Eagle Protection Act of 1940''); and

(2) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

Whereas, on January 15, 2008, the Secretary of the Treasury issued 3 limited edition bald eagle commemorative coins under the American Bald Eagle Recovery and National Emblem Commemorative Coin Act (Public Law 108-486; 118 Stat. 3934);

Whereas the sale of the limited edition bald eagle commemorative coins issued by the Secretary of the Treasury has raised approximately $7,800,000 for the nonprofit American Eagle Foundation of Pigeon Forge, Tennessee to support efforts to protect the bald eagle;

Whereas, if not for the vigilant conservation efforts of concerned Americans and the enactment of strict environmental protection laws (including regulations) the bald eagle would probably be extinct;

Whereas the American Eagle Foundation has brought substantial public attention to the cause of the protection and care of the bald eagle nationally;

Whereas November 4, 2010, marks the 25th anniversary of the American Eagle Foundation;

Whereas the dramatic recovery of the population of bald eagles—

(1) is an endangered species success story; and

(2) an inspirational example for other wildlife and natural resource conservation efforts around the world;

Whereas the initial recovery of the population of bald eagles was accomplished by the concerted efforts of numerous government agencies, corporations, organizations, and individuals; and

Whereas the continuation of recovery, management, and public awareness programs for bald eagles will be necessary to ensure—

(1) the continued progress of the recovery of bald eagles; and

(2) that the population and habitat of bald eagles will remain healthy and secure for future generations: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 20, 2010, as ''American Eagle Day'';

(2) applauds the issuance of bald eagle commemorative coins by the Secretary of the Treasury as a means by which to generate critical funds for the protection of bald eagles; and

(3) encourages—

(A) educational entities, organizations, businesses, conservation groups, and government agencies with a shared interest in conserving endangered species to collaborate and develop educational tools for use in the public schools of the United States; and

(B) the people of the United States to observe American Eagle Day with appropriate ceremonies and other activities.

The resolution (S. Res. 543) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 543

Whereas Prader-Willi syndrome is a complex genetic disorder that occurs in approximately 1 out of every 15,000 births;

Whereas Prader-Willi syndrome is the most commonly known genetic cause of life-threatening obesity;

Whereas Prader-Willi syndrome affects—

(1) males and females with equal frequency; and

(2) all races and ethnicities;

Whereas Prader-Willi syndrome causes an extreme and insatiable appetite, often resulting in morbid obesity;

Whereas morbid obesity is the major cause of death for individuals with the Prader-Willi syndrome;

Whereas Prader-Willi syndrome causes cognitive and learning disabilities and behavioral difficulties, including obsessive-compulsive disorder and difficulty controlling emotions;

Whereas the hunger, metabolic, and behavioral characteristics of Prader-Willi syndrome force affected individuals to require constant and lifelong supervision in a controlled environment;

Whereas studies have shown that individuals with Prader-Willi syndrome have a high morbidity and mortality rate;

Whereas there is no known cure for Prader-Willi syndrome;

Whereas early diagnosis of Prader-Willi syndrome allows families to access treatment, intervention services, and support from health professionals, advocacy organizations, and other families who are dealing with the syndrome;

Whereas recently discovered treatments, including the use of human growth hormone, are improving the quality of life for individuals with the syndrome and offer new hope to families, but many difficult symptoms associated with Prader-Willi syndrome remain untreated;

Whereas increased research into Prader-Willi syndrome—

(1) may lead to a better understanding of the disorder, more effective treatments, and an eventual cure for Prader-Willi syndrome; and

(2) is likely to lead to a better understanding of common public health concerns, including childhood obesity and mental health; and

Whereas advocacy organizations have designated May as Prader-Willi Syndrome Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports raising awareness and educating the public about Prader-Willi syndrome;

(2) applauds the efforts of advocates and organizations that encourage awareness, promote research, and provide education, support, and hope to those impacted by Prader-Willi syndrome;

(3) recognizes the commitment of parents, families, researchers, health professionals, and others dedicated to finding an effective treatment and eventual cure for Prader-Willi syndrome; and

(4) expresses support for the designation of a National Prader-Willi Syndrome Awareness Month.

The resolution (S. Res 544) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 544

Whereas in 2003, United States beef exports to China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam were valued at $3,300,000,000;

Whereas after the discovery of 1 Canadian-born cow infected with bovine spongiform encephalopathy (BSE) disease in the State of Washington in December 2003, China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam, among others, closed their markets to United States beef;

Whereas for years the Government of the United States has developed and implemented a multilayered system of interlocking safeguards to ensure the safety of United States beef, and after the 2003 discovery, the United States implemented further safeguards to ensure beef safety;

Whereas a 2006 study by the United States Department of Agriculture found that BSE was virtually nonexistent in the United States;

Whereas the internationally recognized standard-setting body, the World Organization for Animal Health (OIE), has classified the United States as a controlled risk country for BSE, which means that all United States beef and beef products from cattle of all ages is safe for export and consumption;

Whereas China continues to prohibit imports of all beef and beef products from the United States;

Whereas Japan has opened its market for United States exporters of beef and beef products from cattle less than 21 months of age, but has not yet opened its market for all United States beef and beef products from cattle of all ages;

Whereas Hong Kong has opened its market for United States exporters of deboned beef from cattle less than 30 months of age, but has not yet opened its market for all United States beef and beef products from cattle of all ages;

Whereas Taiwan has opened its market for United States exporters of deboned and bone-in beef and certain offal products from cattle less than 30 months of age and has agreed to open, but has not yet opened, its market for all United States beef and beef products from cattle of all ages;

Whereas South Korea has opened its market for United States exporters of beef and beef products from cattle less than 30 months of age and has agreed to open eventually, but has not yet opened, its market for all United States beef and beef products from cattle of all ages;

Whereas Mexico has opened its market for United States exporters of deboned and bone-in beef and certain offal from cattle less than 30 months of age, but has not yet opened its market for all United States beef and beef products from cattle of all ages;

Whereas Vietnam has opened its market for United States exporters of beef and beef products from cattle less than 30 months of age, but has not yet opened its market for all United States beef and beef products from cattle of all ages;

Whereas between 2004 through 2009, United States beef exports declined due to these restrictions, causing significant revenue losses for United States cattle producers, for example, United States beef exports to Japan and South Korea averaged less than 15 percent of the amount the United States sold to Japan and South Korea in 2003; and

Whereas, while China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam remain important trading partners of the United States, unscientific trade restrictions are not consistent with their trade obligations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) sanitary measures affecting trade in beef and beef products between the United States and China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam should be based on science;

(2) since banning United States beef in December 2003, China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam have, to varying degrees, failed to comply with internationally recognized scientific guidelines with respect to United States beef and beef products;

(3) China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam should fully comply with internationally recognized scientific guidelines;

(4) China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam should open their markets to United States exporters of all beef and beef products from cattle of all ages, consistent with OIE guidelines; and

(5) the President should continue to insist on full access for United States exporters of

beef and beef products to the markets in China, Japan, Hong Kong, Taiwan, South Korea, Mexico, and Vietnam.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 282, the adjournment resolution, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 282) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 282) was agreed to, as follows:

H. CON. RES. 282

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Thursday, May 27, 2010, through Tuesday, June 1, 2010, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, June 8, 2010, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, May 27, 2010, through Tuesday, June 1, 2010, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 7, 2010, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

APPOINTMENT AUTHORIZATION

Mr. DURBIN. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

ORDERS FOR FRIDAY, MAY 28, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until 10 a.m. on Friday, May 28; that following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and 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.

PROGRAM

Mr. DURBIN. Mr. President, there will be no rollcall votes during Friday's session of the Senate.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it recess under the previous order.

There being no objection, the Senate, at 9:53 p.m., recessed until Friday, May 28, 2010, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

J. THOMAS DOUGHERTY, OF WYOMING, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BURKINA FASO.

ERIC D. BENJAMINSON, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

DEPARTMENT OF LABOR

PAUL M. TIAO, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF LABOR, VICE GORDON S. HEDDELL, RESIGNED.

NATIONAL BOARD FOR EDUCATION SCIENCES

ROBERT ANACLETUS UNDERWOOD, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012, VICE ROBERT C. GRANGER, TERM EXPIRED.

ANTHONY BRYK, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2011, VICE HERBERT JOHN WALBERG, TERM EXPIRED.

BEVERLY L. HALL, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING MARCH 15, 2012, VICE CRAIG T. RAMEY, TERM EXPIRED.

KRIS D. GUTIERREZ, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012, VICE GERALD LEE, TERM EXPIRED.

THE JUDICIARY

JAMES E. SHADID, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS, VICE MICHAEL M. MIHM, RETIRED.

MAX OLIVER COGBURN, JR., OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA, VICE LACY H. THORNBURG, RETIRED.

DEPARTMENT OF JUSTICE

WILLIAM J. IHLENFELD, II, OF WEST VIRGINIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF FOUR YEARS, VICE SHARON LYNN POTTER.

JOHN WILLIAM VAUDREUIL, OF WISCONSIN, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF WISCONSIN FOR THE TERM OF FOUR YEARS, VICE ERIK C. PETERSON.

DEPARTMENT OF ENERGY

NEILE L. MILLER, OF MARYLAND, TO BE PRINCIPAL DEPUTY ADMINISTRATOR, NATIONAL NUCLEAR SECURITY ADMINISTRATION, VICE WILLIAM CHARLES OSTENDORFF, RESIGNED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

AXEL L. STEINER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

CLIFFORD R. SHEARER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 531:

To be major

ADAM M. KING
MATTHEW N. MCCONNELL
DEREK A. POTEET
JOHN J. STEPHENS
JAMES D. VALENTINE