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Senate

The Senate met at 3 p.m. and was called to order by the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana.

PRAYER

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

Let us pray.

Eternal Spirit, our shelter in the time of storm, teach our Senators to live as You would have them live. Give them the wisdom to serve others as You desire, providing an example worthy of the high calling they have received from You. Lord, inspire them to be kind to one another, ever seeking for truth in all their endeavors. Keep them totally dependent on You for guidance and strength, freeing them from anxiety and fear. May Your blessing and benediction enable them to work together in harmony and peace.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARY L. LANDRIEU 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. INOUYE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 26, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Ms. LANDRIEU thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

ORDER FOR MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that following leader remarks—and it doesn't appear there will be any—there be a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each.

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

SCHEDULE

Mr. REID. Madam President, following morning business, the Senate will resume consideration of the motion to proceed to S. 3628, the DISCLOSE Act. There will be no rollcall votes today. Senators should expect the next vote to occur at 2:45 p.m. tomorrow, July 27. That vote will be on the motion to invoke cloture on the motion to proceed to the DISCLOSE Act.

This week, the Senate will consider the DISCLOSE Act, the small business jobs bill, the Energy bill, and any other items on the Legislative or Executive Calendars that have been cleared for action.

Would the Chair announce morning business.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

MEASURE PLACED ON THE CALENDAR—S. 3643

Mr. REID. Madam President, I am told that S. 3643 is at the desk and is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 3643) to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

Mr. REID. Madam President, I object to any further proceedings with respect to this bill.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

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

RECOGNITION OF THE MINORITY LEADER

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

ANNIVERSARY OF THE DEATHS OF OFFICER JACOB JOSEPH CHESTNUT AND DETECTIVE JOHN MICHAEL GIBSON

Mr. McCONNELL. Madam President, in our democratic system, protection and preservation of the United States of America, her institutions, and her citizens is based solely on the voluntary risks taken and sacrifices made by ordinary Americans.

Woven into the fabric of this great Nation and within all Americans is the notion that freedom is not free. Time and time again our citizens, members of our Armed Forces, and law enforcement officials, when called upon, have answered the call to defend that freedom.

Twelve years ago this past Saturday, two courageous Capitol police officers answered the call and made the ultimate sacrifice for their country and their fellow countrymen. Today, I wish to honor the sacrifice of Officer Jacob Joseph Chestnut and Detective John Michael Gibson. An American President once noted:

> Freedom is never more than one generation away from extinction. We didn't pass it to our children in the bloodstream. It must be fought for, protected and handed on for them to do the same, or one day we will spend our sunset years telling our children and our children's children what it was once like in the United States where men were free.

People like Officer Chestnut and Detective Gibson defended and even gave their lives in the service of this truth that is so vital to our society. That is why we remember them and that is why we will continue to tell their story, so those who follow will never forget the cost of freedom.

Both men served for 18 years on the Capitol police force. Officer Chestnut—or J.J. to his friends—was 58 years old and a father of five. He was a 20-year veteran of the Air Force, serving in Vietnam and Taiwan.

Detective Gibson was 42 years old and a father of three. A Massachusetts native, friends recall his intense love for his Boston sports teams—the Bruins, the Red Sox, and UMass basketball. A friend recalled that just a few days before the shooting, John told him he had never had to draw his weapon on the job. Yet, despite being mortally wounded on the day he died, John did not hesitate to return fire.

This is not only a tribute to Detective Gibson's commitment, it is a testament to the outstanding training and preparation the officers of the Capitol police force receive to handle even the toughest situations. Officer Chestnut and Detective Gibson were the first Capitol police officers to die in the line of duty.

In honor of their sacrifice, a plaque has been placed in the Capitol, and their names have been etched upon the National Law Enforcement Officers Memorial, as well as the headquarters of the U.S. Capitol Police—fitting tributes to honor these good and courageous men.

My friend the majority leader, a former Capitol police officer himself, knows all too well the honor as well as the risks associated with the job. So as we honor Officer Chestnut and Detective Gibson today, we also honor all Capitol police who put their lives on the line every single day to protect us and this institution.

To all members of the Capitol police, we thank you for your service and your sacrifice. We are grateful for the heroic sacrifice of these two men. On this day of remembrance, we remember their families as well. May God continue to look after them, and may God continue to protect all those, like Officer Chestnut and Detective Gibson, whose daily work is to protect the rest of us from harm.

Madam President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DISCLOSE ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3628, which the clerk will report.

The legislative clerk read as follows:

> Motion to proceed to Calendar No. 476, S. 3628, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

Mr. SCHUMER. Mr. President, I rise today in strong support of S. 3628, the Democracy Is Strengthened by Casting Light on Spending in Elections Act, otherwise known as the DISCLOSE Act. I urge my colleagues to support the motion to proceed to a debate on this critical legislation tomorrow at 2:45.

We must not forget why we are here today. In Citizens United v. FEC, the Supreme Court narrowly overruled almost a century of law and precedent and held that corporations have the same first amendment rights as people and therefore can spend freely on elections from their treasuries. The Court also opened the door to new kinds of campaign spending by labor unions and certain nonprofit organizations.

At a time when the public's fears about the influence of special interests were already high, that decision stacked the deck even more against the average American. As a result, we are faced with a new reality in our democracy: unlimited amounts of cash can now flow into our Federal elections anonymously and with no accountability.

Voting is the bedrock of our democracy. Elections provide the voters a loudspeaker through which they can make their opinions heard. Allowing special interest money to pour into elections unchecked and undisclosed will drown out the voices of the voters. But the Supreme Court decision did leave us one narrow opportunity to make an impact on this new era in campaign spending.

In Citizens United, eight of the nine Justices agreed that disclosure of campaign expenditures is constitutional and in the public's interest. The Court held that disclosure requirements ''do not prevent anyone from speaking'' and serve governmental interests in ''providing the electorate with information'' about the sources of money spent to influence elections so that voters can ''make informed choices in the political marketplace.''

By working within the contours of the Court's majority opinion, we have crafted this bill around new disclosure requirements designed to shine a bright light on those who would operate in the shadows. This legislation will follow the money. In cases where corporations or other special interests try to mask their activities through shadow groups, the legislation drills down so that the ultimate funder of the expenditure is disclosed. No more Citizens for Good Government, or People for Democracy—and the ads are nasty and tawdry, but we never know who they are from.

This legislation requires the sponsors of ads to file regular reports with the Federal Election Commission detailing their political expenditures and the source of the donations they received to fund them.

This legislation enhances disclaimer provisions so the public is aware that it is not a candidate or a political party speaking but a special interest or a corporation. We require CEOs and heads of special interest groups to identify themselves in their advertising. Candidates for Federal office already have to stand by their ads. There is no reason that corporations and special interests should not have to identify themselves as well.

The bill also prohibits entities that receive taxpayer money—such as large government contractors or corporations that received Federal rescue funds—from turning around and spending that money to influence elections. The bill also bans foreign-controlled corporations from spending in our elections.

As Justice Stevens noted in his dissent, Citizens United allows foreign-controlled interests to participate in American elections now simply by using their domestic-based entities. We need to prevent that from happening, and the DISCLOSE Act does just that.

If not for the DISCLOSE Act, by the way, foreign companies, foreign corporations, foreign entities could participate in our elections. They could put themselves up under the name of ''Americans for Good Government'' and no one would even know. Let's be clear, current law bans foreigners, foreign corporations, foreign unions from participating in our elections, but under the complex nature of corporate law, we have domestic entities that would no longer fit into this ban by current law but which are controlled by foreign interests or even hostile foreign governments. We cannot allow BP, CITGO, or Chinese sovereign wealth funds to influence our elections, particularly under a name that would not show it was them. We need to close this loophole now, and that is what the DISCLOSE Act does.

Let me turn to what the bill does not do. There has been a strong argument from the hard right, desperate to see that this bill not pass; that this is an infringement on free speech. That is absurd. Claiming that disclosure is tantamount to muzzling free speech is nothing more than a scare tactic from special interests that do not want the public to know what they are doing.

If you have the courage of your convictions, you should say who you are, plain and simple. Democrats and Republicans alike have long defended disclosure campaign expenditures as both appropriate and constitutional. The minority leader has talked about disclosure as a substitute for campaign finance reform. And in this bill, we are working well within the free speech guarantees of the first amendment in our strengthening of disclosures and disclaimers on campaign ads.

Second, this bill does not circumvent the Supreme Court. While I believe the Court's ruling was an activist overreach, this legislation clearly does not. The main purpose of the DISCLOSE Act is to provide the American public with information on who is speaking when political advertising and expenditures are made. Its purpose is not to circumvent or overturn the Court's decision by imposing a backdoor ban on special interest spending.

Recently, the Supreme Court, in another case, Doe v. Reed, again upheld disclosure as constitutional under the first amendment, with the support of eight Justices, which means a whole number of conservative judges had to support that idea.

This bill does not treat corporations and labor unions, along with trade associations and most other organizations, differently. Last month, we all know the House passed its version of the DISCLOSE Act. We have made changes to the House bill that I believe make it more evenhanded while sticking to the central goal of bringing transparency and public disclosure to the new kind of election spending the Supreme Court approved. For example, the House bill received criticism for allowing organizations that collect dues to avoid disclosing transfers of funds they make to their affiliates. This was criticized, fairly or unfairly, as a union carve-out. So we eliminated this exemption in the Senate bill. Another exemption was made for transfers between separate organizations if the funds could not be traced to an individual donor. We removed this exemption as well. So anyone who votes against this bill under the guise that it treats labor and corporations differently has not read the bill. We have kept this bill balanced and evenhanded. The changes made a strong bill even stronger.

To recap, the bill does not chill speech. It does not impose a backdoor ban on corporate spending. It does not treat labor unions differently from corporations. What this bill does do is listen to the American people, and 8 in 10 American voters, Democrats, Republicans, and Independents, overwhelmingly disapprove of the Supreme Court's opinion in Citizens United and overwhelmingly support what we are doing here today. And there is good reason why. The public does not want to be deceived by advertising from anonymous funders. The public does not want foreign-controlled interests taking over our elections. And the public does not want their tax dollars being used by large Federal corporations to influence elections.

Already, the Citizens United decision has given rise to a cottage industry of swift boat-style shadow groups, groups that do not make democracy proud. Karl Rove admitted this month that his new 527, dubbed ''American Crossroads,'' was born out of a loophole created by the Citizens United decision. He bragged that his group will flood the 2010 elections with $52 million worth of ads bankrolled anonymously by special interests. Other shadow groups like Rove's are planning similar levels of activity. All together, these groups could account for $300 million in political spending this fall alone. The Supreme Court, unfortunately, opened the door to these anonymous donations. We must act now to close the door before faceless groups are allowed to spend unlimited sums without any accountability or transparency. The voters deserve to know the source of this spending.

My prediction—sad but I really believe true—is that if we do not close this loophole, the roots of our democracy will get more and more corroded, endangering the whole vital tree, the oak of democracy itself. It is hard to believe that we are now saying that a company, a group, that has multimillions of dollars can spend that money against a particular candidate, say whatever it wants, whether it is true or false, and not be held to any accountability whatsoever. What has become of our democracy?

The Supreme Court made the wrong decision. I still can't understand why they did it. But we have an opportunity here—not as Democrats or Republicans but as Americans—to rectify, at least modify within the Constitution and at least require disclosure because we all know disclosure will not chill speech but it will make sure that those who wish to launch millions of dollars of nasty and perhaps untruthful ads against a candidate they don't like will at least have to say their name. What could be wrong with that?

The Senate will vote tomorrow afternoon to invoke cloture on the motion to proceed to the consideration of the DISCLOSE Act. I urge my colleagues to allow us to move to a debate on this crucial legislation. We have a clear choice tomorrow: We can vote to debate how to make our elections more open and transparent or we can bow to special interests that seek to influence our elections behind closed doors. It is time for us to have that debate. Our democracy cannot afford a filibuster of transparency and disclosure in its elections. Let's be clear: If we fail to act now, the winner of November's elections will not be Democrats or Republicans; it will be special interests.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ETHANOL

Mr. GRASSLEY. Mr. President, last week there was a news conference by a group of outside people who attacked ethanol, and then the senior Senator from Arizona gave a speech on that subject last week. I told the senior Senator that I was going to have something to say about ethanol this week; I didn't tell the news conference people that I was. So it seems to be that time of year once again. Without fail, every few months or so, we have big oil on the one hand and big food interest groups on the other hand start a misinformation campaign in an effort to denigrate the U.S. biofuels producers. In other words, they are attacking renewable fuels.

Last week, almost as if on cue, a group opposed to domestic efforts to reduce our dependence on foreign oil began their usual song and dance. A

press conference led by the Grocery Manufacturers Association and other special interest groups was held to malign the benefits of homegrown renewable fuels. Don't forget that this is the same group of folks who, a few years ago, waged a high-priced, inside-the-beltway smear campaign against ethanol for allegedly leading to higher food prices. At that time, the price of corn was going up because there was speculation in commodities, the price of oil was going up, and so the grocery manufacturers decided: We have to have an excuse to increase the price of food—20 percent, roughly. Well, you know what, the price of grain came down, but the price of food has not come down. So I think it was simply a diversionary tactic to get away with what they maybe would not have gotten away with with the consumers.

Well, I think 2 years ago, maybe 3 years ago, that myth was roundly dispelled, but I want to keep reminding people that there was that campaign out there. Economists proved what Iowa farmers and our Nation's farmers knew to be true: The higher cost of corn was responsible for just a tiny fraction of the increase in food prices. So while food manufacturers wanted consumers to believe that corn ethanol was doubling or tripling their grocery prices, nonbiased observers knew that the corn input costs were just pennies of the retail price of food.

However, with dozens of multibillion-dollar corporations and profits to protect, it is not surprising to see this group—or maybe I better say these groups—attack our country's farmers and ranchers, who are working to produce our Nation's food, our Nation's feed, our Nation's fiber, and now, with renewable fuels, producing fuel that you and I burn in our car tanks almost daily. And farmers can do that. They can do all of that. They are doing it right now. This year, we will have the largest corn crop this country has ever produced, and doing it on 3 million less acres of cropland.

So these same groups are at it again. They see new opportunities to undermine our domestic biofuels industry, and they have a bottom line to look out for and pockets to line. They are now arguing that our Nation cannot afford government policies to foster the growth of renewable energy. In other words, they are arguing that the cost of energy independence is too high and we cannot afford it. They would prefer that we increase our reliance on fossil fuels and imported crude oil. The unfortunate outcome of such attacks, however, is that less informed individuals begin to believe this misinformation. So it is time that we review the true cost of imported fossil fuels.

In 2008, Americans sent over $450 billion to foreign countries to satisfy our demand for oil. At $80 a barrel—and I suppose oil is, I think, roughly $75 now, but if it is $80 a barrel, we will send nearly $350 billion overseas, out of this country, this year for oil.

We rely on foreign oil to meet 60 percent of our oil demand. But do not forget, much of the world's oil reserves are located in the volatile and very unpredictable Middle East.

According to the Energy Information Administration, oil price shocks and price manipulation by the Organization of Petroleum Exporting Countries cost our economy about $1.9 trillion between 2004 and 2008.

Our dependence on imported oil accounts for about one-half of our trade deficit—one commodity—a very important commodity for us, but it accounts for one-half of our trade deficit.

The Federal Government's support for homegrown ethanol equals less than 2 percent—just less than 2 percent of the money we will send to Canada, Saudi Arabia, Mexico, Venezuela, Nigeria, and other countries where we import oil.

The domestic ethanol industry supports 400,000 green jobs in the United States. Last year, ethanol contributed over $50 billion to our gross domestic product. It contributed $8.4 billion in tax revenue to the Federal Government. The incentives we provide for ethanol production lead to a surplus of tax revenue for the Federal Treasury. So which is the better bargain—being dependent on foreign countries for 60 percent of our energy needs at a cost of $350 billion or keeping this money at home, creating green jobs and increasing our national and economic security? I believe the choice is very obvious.

Up to this point, I have only considered the economic cost. There are other costs. I will put up a chart with one of the environmental costs. This chart depicts a small example of the environmental cost of our dependence upon foreign oil. The first photo, the lower photo, is the one we are all too familiar with, the explosion and the ensuing oilspill at BP's Deepwater Horizon oil rig. The other photo might look like Mars or the Moon, but it depicts land in Canada where oil is being extracted from tar sands. The fact is, fossil fuels are getting more expensive to extract and are likely to come at greater environmental cost. That is the negative aspect, environmentally, beyond the economic issues I have discussed.

We have an alternative. That alternative, which the next chart shows, is homegrown, renewable biofuels. The chart shows the cornfield on the left, and where we go to the gasoline station to get the renewable fuels to power the car on the right. Today, ethanol accounts for 10 percent of our transportation fuels. No other fuel alternative comes close to ethanol's contribution to a clean environment and less dependence on foreign energy and less dependence upon fossil fuels. Domestically produced ethanol contributes more to the fuel supply than all imports except Canada. More ethanol means less greenhouse gas emissions. A University of Nebraska study found that ethanol reduces direct greenhouse gas emissions by 48 to 59 percent compared to gasoline. Ethanol production continues to improve, and increasing crop yields means we are producing more fuel from less grain on fewer acres.

Let me repeat something I said earlier: Probably 13 billion bushels of corn, the largest crop ever produced in the United States, and we have 3 million less acres in crop production this year compared to a year ago. Ethanol producers are reducing energy and water usage. So the production of ethanol is becoming more efficient.

Finally, it is important we consider the national security cost of our dependence upon foreign oil. I will put up a chart about the Middle East. The Middle East accounts for 20 percent of U.S. oil imports; 17 billion barrels of oil are shipped each day through the single most important shipping chokepoint; that is, the Straits of Hormuz out of the Persian Gulf. In fact, the military people say that is one of the serious problems in dealing with Iran, if they decided to sink ships there, what they could do economically to the rest of the world and what they could do national security wise to the rest of the world. They have threatened that. They have never done it, probably because their livelihood depends on it as much as the rest of the world. But it is still one of those chokepoints. On average, 15 crude oil tankers pass through the Straits of Hormuz every day, with much of that oil headed to the United States.

We have two other large oil shipping chokepoints; one at the Suez Canal and the other one at the Gulf of Aden at the bottom of the map. To determine the true cost of America's dependence on foreign oil, it is important to understand the cost to the taxpayers of defending and protecting these shipping lanes. A New York Times editorial, in the late 1990s, calculated the true cost of a gallon of gas, including the military cost of making sure it can get from the oil wells of the Middle East to the United States at $5 a gallon. Last week, I questioned four-star retired U.S. Army GEN Wesley Clark on the true cost of gasoline, when he appeared before the Committee on Agriculture. He estimated it to be around $7 to $8 a gallon today, 10 years later than the New York Times editorial.

Homegrown ethanol produced in the Midwest—I suppose anyplace in the United States, but most of the corn is produced in the Midwest—doesn't need a military escort to the gas stations on the east or west coasts such as oil from the Middle East does. Homegrown ethanol does not need the Department of Defense to protect its transport from our farm fields to consumers. Again, our Nation's investment in ethanol is a real bargain. It is increasing our economic and national security. That is why it is important we continue to support this industry.

Some have claimed it is a mature industry and it no longer needs our help.

This statement ignores the fact that ethanol is competing with a century-old industry dominated by big oil, which itself has received billions of dollars from the taxpayers over many decades and for decades longer than the ethanol industry.

Getting back to the detractors I referred to, most often the people who held the press conference a week ago today denigrating oil, these ethanol detractors continue to undermine these efforts. One organization estimates that a lapse in the tax incentive for ethanol would shut down 40 percent of the industry and result in the loss of 112,000 green jobs. That is 112,000 jobs that rely on the production of ethanol. We can't allow ethanol to follow the path of biodiesel which has essentially shut down because this Congress failed to extend that tax incentive that ran out last December 31. While President Obama spoke in his address on Saturday about investing in homegrown clean energy, 45,000 biodiesel jobs have vanished because of the lapse of the biodiesel tax credit. It is inexcusable.

President Obama touted the goal of creating 800,000 clean energy jobs by 2012. Why not take action today to extend the lapsed biodiesel tax credit and immediately put 45,000 people back to work? The same thing could happen to the ethanol industry, if we fail to extend the tax incentive which runs out December 31 this year. If we undermine ethanol, we are putting out the welcoming mat for dictators such as Hugo Chavez. In fact, last night on the television, it said Chavez is talking about maybe not selling oil to the United States.

Then, last week, as I referred to in my speech—and I told the Senator from Arizona I was going to speak on ethanol this week—we had the senior Senator from Arizona question the wisdom of domestic renewable fuel incentives. He was quoted as saying:

> Maybe we will stop this damned foolishness called ethanol subsidies. It's one of the greatest rip-offs that takes place on the American taxpayers.

So to those who would do away with our domestic ethanol production, I have one question: Which country should we look to for 10 billion gallons of fuel? Would we want to go to Saudi Arabia? Would we want to go to Venezuela? Would we want to go to Nigeria? Whom would we rather support with our hard-earned money? I want to ask this question: Would we rather support Hugo Chavez or the American farmer? Would we rather support Chavez, which is an insane thing to do? Sending money to someone who buys guns to fight us is insanity. In this chart we have these two people on the left, Chavez and the President of Iran. We have the farmer of America on the right. Where would we want to get our energy from? Whom would we want to rely on?

It is pretty easy to answer that question. We shouldn't be reducing our use of renewable fuels. We should be increasing it. We should produce all we can from corn and from the biomass that is left over from corn and from grasses and from wood waste. We should increase the use of biofuels by mandating the production of flex-fuel vehicles and increasing the availability of blender pumps.

Ethanol is here today. It is creating a cleaner environment. It is keeping money at home in our economy and increasing our national security. Undermining the only renewable fuel that has the proven ability to accomplish these goals would be insanity, a little bit like the two people we see on the left but not the person on the right. The person on the right is the backbone of the American economy because nothing has contributed to the national wealth except what comes from the national resources of the country.

Bottom line: Ethanol is good for America, but let's segment that. It is good for agriculture. It is good for good-paying jobs in small town America, where these renewable plants are located. It is good for the environment. It is good for lessening our dependence on foreign oil, which helps our trade balance, which helps our national security. There isn't another issue Members can come before the Congress with that has no negatives and all positives. In other words, everything about ethanol is good, good, good.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

RAISING TAXES

Mr. KYL. Mr. President, I suspect my colleague, the senior Senator from Arizona, will have something in response to say to my friend from Iowa. But what I wish to talk about is a comment Secretary of the Treasury Geithner made on television yesterday, in which he said he thought it would be a good idea to raise taxes in this country and that he didn't think income taxes on the higher two of the five tax brackets will hurt economic growth. He also said he supports allowing the top capital gains rate to be increased by 25 percent, from 15 to 20 percent.

I want to talk about that for a few minutes today. In this country, we have two goals: job creation and economic growth. We also want to reduce our Federal deficit and ultimately the Federal debt.

So how do we promote investment? There are two basic theories. One theory is that if we spend a lot of money that we borrow from countries such as China on programs such as the stimulus program, we can create economic growth and jobs. That has not worked. We have 3 million more people out of work today than when the stimulus package was put into effect. In fact, unemployment was supposed to be 8 percent or so now with the stimulus package, and, of course, it is 9.5 percent and with no relief in sight. The other way to do this is through investment by businesses, both large and small businesses. I think most economists believe that if businesses have capital to invest, they can hire more people, create more output or productivity, and therefore produce both growth and jobs.

So what we should be doing is promoting job creation and economic growth through private investment. How do we promote that? I know one thing you do not do, especially in bad economic times, is raise taxes. The last thing any business, especially a small business, needs—when you are asking them to hire more people—is to say: By the way, would you also give some money to Uncle Sam above what you are already contributing? We need it, and you can put off hiring that person you were going to hire for your business until later.

We know that is not how you promote economic growth. You should not raise taxes, as I said, especially in a time like this.

Secretary Geithner said he did not believe higher taxes would hurt economic growth. So I checked on what the President's chief economist said—Christina Romer, Chairwoman of the President's Council of Economic Advisers—to see whether she agreed with Secretary Geithner. Well, it turns out she very much disagrees. In a paper that has just been published in the June 2010 issue of the American Economic Review called ''The Macroeconomic Effects of Tax Policy Changes,'' she writes, among other things, the following—I am quoting now from page 764:

> Our estimates suggest that a tax increase of 1 percent of GDP reduces output over the next three years by nearly three percent. The effect is highly statistically significant.

So output or growth is reduced by nearly 3 percent just over the next 3 years.

She says on page 797:

> The key results—

And we are talking about the impact of tax changes on consumption and investment, which are the two key components to growth.

She says:

> The key results are that both components decline, and that the fall in investment is much larger than the fall in consumption. In response to a tax increase of one percent of GDP, the maximum fall in personal consumption expenditures is 2.55 percent. . . . just slightly less than the maximum fall in GDP. The maximum fall in gross private domestic investment is 11.19 percent. . . .

So think of it: Just raising taxes by 1 percent of GDP results in a decrease—or she calls it a fall—in gross private domestic investment of over 11 percent. So not only are you not contributing positively to investment and therefore hiring, but you are cutting it by 11 percent during this same period.

She says on page 781:

> In short, tax increases appear to have a very large, sustained, and highly significant negative impact on output . . . the more intuitive way to express this result is that tax cuts have very large and persistent positive output effects.

So there you have it: Tax cuts promote economic growth. Tax increases

depress economic growth. They create a fall in both investment and consumption and therefore output, and the result is statistically significant.

Secretary Geithner is wrong. Raising taxes will have a highly significant, negative impact on job creation, investment, and economic growth in our country.

President Kennedy agreed with this a long time ago. He once said:

> An economy constrained by high tax rates will never produce enough revenue to balance the budget, just as it will never create enough jobs.

The reason I quoted that is because the second goal we have—to reduce budget deficits and public debt—is often used as an excuse by those who want to raise taxes, saying: Well, we reduce debt by raising taxes. As President Kennedy said, if you have high tax rates, you are never going to produce enough revenue to balance the budget. You balance the budget with economic growth. The more growth you have, the more revenue is produced because people are making more money and they are paying more taxes. We know that historically. This is not in doubt. During times of economic growth, when people are doing well, revenues to the Treasury increase. In times like today, revenues are decreased. You are not going to be able to balance the budget in this kind of a situation by simply raising tax rates because—what did we just show a moment ago—raising tax rates depresses job creation, economic growth, investment. So you cannot do it by raising taxes.

Indeed, I think my colleagues on the other side of the aisle have exposed themselves a little bit here because they never seem to have a concern about the deficit when it comes to spending. That is why they were able to spend over $1 trillion in an economic stimulus package and not pay for a variety of other things for which they increased spending.

I thought the most interesting example was last week when they refused Republican offers to pay for the $34 billion cost of extending unemployment insurance. All of us wanted to extend unemployment insurance. That was not in doubt. The question was, Should we pay for it with offsets in spending elsewhere? In a $3 trillion budget, we said: There are a lot of places you can get the money, starting with unspent stimulus funds. So we could have paid for or offset the $34 billion cost of extending unemployment benefits. That was our proposal.

The Democratic side said: No. We will not extend unemployment benefits unless we can add to the debt in doing so. We are going to vote no unless it adds to the debt.

In the House of Representatives, the comment was made that they were philosophically opposed to paying for or offsetting the cost because they did not want to get into a position where they would have to find a way to do that in the future. So they rejected an offer that was made by at least one Democratic Senator to use some stimulus funding to offset the cost of unemployment benefits. No, they said, we don't want to do that. We do not want to offset the costs in any way. We want to add to the debt.

So it seems a little hypocritical now for colleagues to come to the floor and say: Oh, we have this big deficit problem. We don't want to add any more to the debt. Let's raise taxes.

Then they have the temerity to say to Republicans—who say, we do not want to raise taxes on anybody, on corporations, on businesses, large, small, individuals, or anybody else—to say: Well, then, in that case, you are going to have to raise taxes on somebody because the budget assumes the tax rates that currently exist are going to be increased next year. So if you are going to increase those tax rates for some people—let's say the top two brackets—how are you going to pay for that?

We say: What is to pay for? Taxes should not be raised. They should not be raised on anybody.

Several of our colleagues on the other side of the aisle are apparently in agreement with that. This is not the time to raise taxes on anybody.

But in any event, if you say: Well, we have to raise taxes to reduce the budget deficit, then why just raise taxes on the top two income tax brackets? That would raise, over 10 years, $682 billion. But if you raise taxes on everybody, you could raise taxes by $2.731 trillion.

Well, the obvious answer is, well, we wouldn't want to pay for that. We wouldn't want to offset the cost of that.

But you have to figure out a way to offset the cost if we raise taxes on the upper two brackets. It is a circular argument that I suggest both makes no sense and is hypocritical.

The bottom line is this: Small businesses will get killed by an increase in the rates of income tax—the so-called upper two brackets. Twenty million people are employed by small businesses that pay their taxes in those two brackets. As a result, what you are going to do is inhibit the growth of our small businesses. An increase in the top effective rate—this is from Douglas Holtz-Eakin—from 35 percent to 42 percent would lower the probability that a small business entrepreneur would add to payrolls by roughly 18 percent.

So I think all of us realize that raising taxes, especially in those top two brackets, will inhibit growth because small business owners will have to pay the tax rather than hire someone. As I said before, according to the NFIB, there are more than 20 million workers in those firms directly targeted by the higher marginal rates. We would have to, in effect—and this came as a result of statistics presented to us by Senator SNOWE, who is also on the Finance Committee—you would need to have economic growth of 5.8 percent—about twice as much as we have today—in order to return to a 5-percent unemployment rate by 2012. To get there by 2013, you would have to have an annual growth rate of 5 percent to get back to 5 percent unemployment. Well, how are we going to increase growth by that much?

I come back full circle to my original point: Our goal is economic growth and job creation. You do not get there by raising taxes. So when my colleagues start talking about raising taxes on anybody—from the death tax to the capital gains tax to marginal rates—my question to them is, Given the fact that the Chairwoman of the President's Council of Economic Advisers has been so clear that this will inhibit job creation and economic growth, why would you want to do that? Why would you want to inhibit economic growth and job creation? The better way, if we are really interested in reducing the deficit, as we should be, is to begin to slow down the spending so that eventually we are not spending more than we take in.

I will close with this point: Last Friday, the White House announced that it turns out the deficit for next year is going to be $1.47 trillion. That is about three times higher than the highest deficit with President Bush, and that was when the Democratic Congress was appropriating the money. The year before that, it was less than $200 billion. In fact, the exact deficit the last year Republicans were in control of the Congress and President Bush was President was $160 billion—$160 billion. That was 1.2 percent of GDP. For next year, it is going to be $1.47 trillion—$1.471 trillion—or 10 percent of our GDP.

The answer is clear: The way to reduce our deficits and reduce our debt is by reducing spending. The way to economic growth is by not increasing taxes. So I hope my colleagues will consider this as we begin to debate the plans to finally achieve economic growth and job creation for the United States.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President and colleagues, I rise today to talk about this legislation, the DISCLOSE Act.

Like much of the legislation that is being taken up in the Senate these days, the partisan battle lines are already being drawn on this bill. One side sees the impending vote as yet another opportunity to score some political points off the other, and vice versa. That makes for a lively debate, but I am not sure what good it does the American people.

I will say on a personal note that I will always fight with every ounce of my strength for the people of Oregon and the folks whom I have the honor to represent. I say to the Presiding Officer, you and I have talked about this from time to time. I do not exactly come to the floor of the Senate looking for gratuitous, political, counterproductive fights. What I have been interested in, what I have tried to make the hallmark of my service here, is trying to find common ground, trying to

find ways to bring people together. Some have said that is overly optimistic, almost too idealistic. But I prefer to say it is simply bipartisanship and principled bipartisan. It has been my experience in the Senate that if you can get folks to put aside their political talking points and focus on commonsense policy, not only are there opportunities for us in the Senate to find common ground, there are opportunities to advance policies that make sense for all Americans, whether they are Democrats or Republicans. I have joined Senator SCHUMER in cosponsoring the DISCLOSE Act because I continue to believe this is such an opportunity for bipartisanship and finding common ground.

For me, this issue took hold after the 1996 special election where Senator Smith, my former colleague—my very good and personal friend—and I campaigned against each other to be Oregon's first new U.S. Senator in more than 30 years. Suffice it to say that campaign was not the kind of calm and upbeat debate that folks here in the Senate would expect from either me or from Gordon Smith. Instead, it was one of the ugliest campaigns in Oregon history. There were attack ads being run by both the left and the right. Certainly, while policy differences and personal criticisms are fair and an almost inevitable part of a political campaign, what bothered Senator Smith and me at that time, during that special election—the only race that was being run anywhere in our country—is not only did Oregon voters not know who was responsible for the bulk of those ads; neither Gordon Smith nor I could figure out who was saying what about whom.

My view was that something had to change. Something is way out of whack when you are having scores of ads, hundreds and hundreds of ads being run, and no one can figure out who is running them. My concern is that we are heading back into exactly that same kind of situation, given the decision from the U.S. Supreme Court.

Shortly after my election in 1996, when I had watched all of those ads being run from all those various and sundry groups and not able to identify who was running them, I came back to the Senate and said I am going to do everything I can to change that. I got together with a number of us on both sides of the aisle; let me emphasize that, because it can't be emphasized enough. This was a bipartisan group that was concerned about that particular issue. We came up with a concept known as Stand By Your Ad, where, in effect, those who run ads in their campaigns—it has continued to this day—would have to own up to their being the ones sponsoring the message.

As part of the campaign reform of 2002, Stand By Your Ad was included. In my view, it has ushered in a new era of personal accountability in political elections by requiring candidates to take personal responsibility for the contents of their ads. Not only has every Member of this body seen those ads; my guess is just about everyone but our new colleague from West Virginia has actually recorded those ads. That is, in effect, what is required. One has to say: ''I am Ron Wyden and I approved this message.'' It certainly isn't a hard thing to do, and it certainly is not out of line with what the American people have a right to expect, which is openness and personal accountability.

Now with the Supreme Court decision giving corporations and unions and even foreign economic interests the ability to spend as much, if not more, money to influence elections than the candidates themselves, I think it is only right that these groups abide by the same rules as the candidates themselves. Just as voters have a right to know when a candidate is trying to influence their vote, I believe voters have a right to know when one of these powerful organizations seeks to do the same.

Of course, this is going to have an impact on the content of political speech. Sunlight is the most powerful disinfectant, and I think all of us ought to understand these groups that are buying all these ads are going to be a little bit more hesitant to pay for an outrageous attack, an outlandish overreach, if they know they have to put their name on it. I think the question that ought to be asked here in the Senate is not why should organizations have to stand by their political speech, but the question should be why don't they want to. What are they actually ashamed of? In my view, if you feel strongly enough about an issue to buy television time, you ought to have the guts to put your name on it. I have felt that ever since 1996 when I first campaigned for the Senate, and I continue to believe that today.

I know the debate we are going to have tonight and tomorrow on the DISCLOSE Act is going to spur a lot of very impassioned speeches about political elections, and there are going to be accusations flown by one side or another about who is going to get a political advantage and what ought to be done to quash the person who is somehow deriving a political advantage out of it. But I would simply say as we go into this discussion that everybody here in the Senate ought to remember exactly how we earned our seats in the first place.

This very institution was founded on the idea of equality and free and open debate. Each and every citizen's voice and vote would be given the same weight as each and every other. What concerns me is that the Supreme Court decision, in my view—I say this respectfully—does a disservice to that concept by making it possible for some voices to drown out others. That is what ought to be contemplated at this point, and it is certainly what I have been talking about at home, which is that this decision has made it effectively possible for a foreign economic interest to have a louder voice in this country's political process than a hard-working, tax-paying Oregonian. I don't think that is fair; I don't think it is just; and I am not prepared to stand for it.

I am proud to join Senator SCHUMER in sponsoring and advocating for this important legislation that, in my view, is worthy of bipartisanship. I know there is going to be a strong push to deal with the politics of this issue, but I think this bill is now worthy of bipartisan support.

Changes have been made to the legislation to address some of the original concerns that were expressed about the bill. There were concerns originally addressed that some groups weren't being held as accountable as others and I believe the legislation has been amended to correct many of those problems. I think Senator SCHUMER deserves considerable credit for it. I have always felt that a credible effort at transparency means you have to hold your friends just as accountable as those who may disagree with you, and this legislation does that. It does other important reforms in terms of electronic filing, and I think it is very much in the interests of the American people. It certainly will make it possible for the press to report more expeditiously on these kinds of expenditures.

I wish to commend Chairman SCHUMER of the Rules Committee. I think he has been genuinely interested in a collaborative and open process. I believe Senator SCHUMER has asked me specifically to participate in this kind of process because he knows that is what I feel so strongly about.

We have major issues we have to tackle in the days ahead. I heard Senator KYL talk about taxes. Senator KYL made a point, in discussing taxes with me, about the whole role of tax expenditures which, in effect, is a huge issue in this tax debate. Senator GREGG and I have put out the first bipartisan tax reform bill in two decades. So we have a lot of work to do here and we have to do it in a bipartisan way. I am very hopeful the changes that have now been made, particularly ones ensuring that one makes it clear—that it is so important that accountability and transparency apply in the broadest possible way—and that will make it possible to bring both sides together here in the Senate.

We came together back in 1996 to write Stand By Your Ad. A number of those Senators on both sides of the aisle I know feel very strongly about open and transparent government. Let's find a way for the Senate to duplicate what we did in 1996, and let's make sure that as we go into this election there is transparency and accountability. I don't want to see again what we saw back in 1996 where ads are flying from all sides, in every direction, making charges that are clearly outrageous and over the line and in no way ensures that voters know who is

paying for those ads. The country deserves better. The Senate ought to make it possible for the country to get better and more accountable government, and I am very hopeful this Senate will pass the DISCLOSE Act, particularly the important changes that Senator SCHUMER has made, in the days ahead.

Mr. President, I yield the floor.

Mr. DORGAN. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE ECONOMY

Mr. DORGAN. Mr. President, I listened with some interest to my colleague from Arizona, the minority whip, discuss his notion about the economic issues confronting our country. I wish to respond a bit to them with great respect, of course, because I think the opportunity to have competing ideas about our country's future is a very important opportunity here on the floor of the Senate.

Some long while ago I wrote in a book that I published about Stanley Newberg. I wrote in the book that I had read about Stanley in a very small New York Times article, but it so piqued my interest that I decided to try to find out about Stanley, so I did. I found that Stanley had come to this country as a young boy to escape the persecution of the Jews by the Nazis. He, with his father, sold fish, I believe, on the Lower East Side of New York City, in Manhattan. He followed his dad selling fish. He learned English. He went to school. Then he was able to do well in school and go to college. His parents had saved for him. He went to college and graduated from college and then went to work. He got a law degree and then he went to work for an aluminum company. He did so well he rose up and finally managed the aluminum company and then purchased the aluminum company. When he died, they opened his will. In his will he said he wanted to leave his $5.7 million to the United States of America for the privilege of living in this great country, and that was Stanley Newberg's will.

I thought: That is really unusual for someone to die and in their will leave their money to this country with gratitude for the privilege of living in this great country. What a remarkable thing to remind all of us that being an American is something we shouldn't take for granted Monday through Friday or all week long, for that matter.

It is the case, I think, for most of us that when we grew up, we understood this country was the biggest, the strongest, the best, destined to expand opportunity for our children, and things would always be better for the next generation than for the last. That is how we viewed this country of ours.

But it is the case, it seems to me, these days that America has lost a step. There is great concern about whether the kids will have it better than we had it. There is great concern about the economy and the fact that there are probably 18 million to 20 million people who woke up this morning either without a job, or with less of a job than they could easily handle. They are underemployed or unemployed—18 million to 20 million people. People woke up this morning and saw the news that we are deep in debt and getting deeper in debt. They are concerned about the federal debt, and they should be, there is no question about that.

Let me, for a moment—because I want to engage on the proposition by my colleague from Arizona—transport us back to 2001. In 2001, on the floor of the Senate, during that period, we had a pretty raucous debate. That debate on the Senate floor was about the first budget surplus in 30 years under the last year of President Bill Clinton—a budget surplus of a couple hundred billion dollars. Alan Greenspan was not sleeping at night because he was worried that we were going to pay down the Federal debt too rapidly and that would injure the economy. Many of my colleagues said we have a surplus now, and the economists project that we are going to have surpluses for 10 years—as far as the eye can see. You have heard the old line that if you were to lay all the economists end to end, they would never reach a conclusion. Individually, almost all of them said we have a surplus, and now we will have one as far as the eye can see. Many of my colleagues supported George W. Bush's proposal to provide tax cuts for the next 10 years. They said: Let's provide tax cuts for the next 10 years because we need to give this surplus back to the American people.

I stood on the floor of the Senate then and said I don't think we ought to give back tax funds that don't yet exist. These surpluses are only projections. What if something would happen? How about being a little conservative about this? But, no, Katy bar the door; they said we are going to provide large tax cuts, and the largest to the wealthiest Americans, such that if you made $1 million a year in income, you got an $80,000 or so a year tax cut. That was the proposal. It passed—without my support, but it passed. So that was the experience in 2001.

Fast forward to 2010. Where are we? We are $13 trillion in debt. By the way, this is testimony before the Senate Committee on Finance by Leonard Burman, who is the Daniel Patrick Moynihan Professor of Public Affairs at the Maxwell School at Syracuse University:

> If the Bush tax cuts had never been enacted, the debt held by the public at the end of 2009 would have been 30 percent lower, to about $5.2 trillion . . . This was less than the level of debt at the end of 1999.

The question is—and this is what brought me to the Senate floor—my colleague says we have to extend the tax cuts that were provided in 2001. The President says let's extend the tax cuts for middle-income folks making $250,000 a year, or below. My colleague from Arizona, and others, say, no, let's extend all of Bush's tax cuts from 2001. Let's extend them all. The difference is about $1 trillion added to the debt over the next decade. Extending those tax cuts for roughly 2 percent of the wealthiest U.S. households will cost, with interest, about $1 trillion.

My colleague says if you don't do that, then you are increasing taxes on upper income people, and that is going to retard economic growth. Let me talk for a bit about that, because it is interesting to me that those who are on the floor saying let us not let the tax cuts expire—by the way, these were tax cuts for upper income people, who got the largest tax cuts, and they were given because we were trying to give a surplus back. Does anybody see a surplus around here? Has anybody seen a surplus for 9 years?

Right after the Senate and the Congress passed legislation to provide significant tax cuts for wealthy Americans, we had a recession in 2001, on 9/11 we had a devastating terrorist attack, and then we went to war in Afghanistan, and then we went to war in Iraq, and we had a continuing war against terrorism. We never saw a surplus beyond that year. That deficit and debt went up, up, up, and up.

At the same time all of that was happening, this new administration that came in in 2001 not only said we are going to cut taxes largely for the wealthy, but they said we are going to hire a bunch of regulators in this town who will promise not to look. You do what you want and we won't watch. Wall Street went wild. It was an unbelievable carnival of greed. We had trillions and trillions of dollars of financial vehicles being created that had never been created before, such as naked credit default swaps, synthetic CDOs—you name it—and they were trading back and forth. As Will Rogers said, people were trading things they never got from people who never had it. Everybody was making a lot of money on Wall Street, like hogs in slop, as they say on the farm.

The fact is that the house of cards they created came tumbling down. When this President crossed the threshold of the White House in January of last year, had he taken a Rip Van Winkle nap for a year and done nothing, the budget deficit he inherited was going to be $1.3 trillion. Now we have a $13 trillion Federal budget deficit, and now we have the circumstances of a tax cut, the bulk of which went to the wealthy, that was described by the minority 9 years ago as being essential to give back the surplus that doesn't exist.

The question is, will that tax cut be extended for the wealthiest Americans?

Phrased another way, shall we add another $1 trillion in Federal debt in order to give tax cuts at $80,000 a year to someone who makes $1 million a year? At the same time our colleagues say that is essential to do, they say if you don't do that, you will have an unbelievable impact on small business, because that is who will pay these taxes. That is not true at all—just not true. About 3 percent of small business income, would be captured by that; 97 percent would not. Those are the facts.

At the same time we have people pushing for that—adding $1 trillion to the debt by giving the highest income earners in the country extended tax cuts—the same folks are coming to the floor and saying, by the way, one of our highest priorities is not only to extend the tax cuts for the highest income earners, it is to make sure we repeal permanently the estate tax. They don't call it that; they call it the ''death tax.'' Why do they do that? Because a pollster did a poll and said if you call it the ''death tax,'' you can fool the American people who will believe there is a tax on death. But of course, there is not; there is a tax on inherited wealth.

It seems to me that is an interesting set of priorities. They say we are concerned about the Federal deficit and debt—and, by the way, we want to add $1 trillion to the debt by opposing President Obama's request that we not extend the tax cuts for people making over $250,000. We want to add $1 trillion to the debt, and we also want to repeal the entire estate tax.

I don't know how one believes that set of priorities represents the best interests of our country. I am for lower taxes. I would love it if people could pay minimal taxes across this country. But I am also for a country that works, and a country that matters, and a country that invests in itself and its future. Someone once asked the question: If you were given the assignment to write an obituary and the only information you had about the deceased was their check register, what would you write? So you look at that check register and find out what did they spend money on? What was their value system? What was important to them?

The same is true with the Federal budget and the priorities we described by taxing and spending. What will historians say when looking back and seeing that we were in deep trouble, with 20 million people out of work or underemployed, a $13 trillion debt, and the minority was saying the highest priority was to cut taxes for those earning $250,000, and more, and to repeal the tax on inherited wealth? That is unbelievable.

You know, the only way, as of last year, you would pay any tax on inherited wealth is if you had more than $7 million a year. How many families have more than $7 million net per year? By the way, this year, the inheritance tax is zero, and it springs back the next year. That goofy set of circumstances was arranged by the same people who wrote the tax cut bill in 2001 to give back a surplus that turned out not to exist. So we have a zero tax year this year, and four billionaires have died so far. By the way, their estate will pay a zero rate, and my colleagues come to the floor and say that money has already been taxed. Wrong, it has not. Much of it is growth appreciation of property or tax, and it has never borne a tax. It is just the folks who go to work every day and pay their taxes on time; they pay for their kids' schools, and roads, and police, and fire protection, and the Defense Department, and the CDC—they are the ones paying the taxes.

But do you know what? If you find the people who have 10, 15, 20, and $50 million in assets—I will show you that the bulk of that has come through growth appreciation that has never borne a tax at all in this country. That is the highest priority for the minority—to eliminate the tax on inherited wealth. That is unbelievable to me.

We in this country have a very serious set of problems. We need to cut Federal spending, there is no question about that. Federal agencies are big and, in some cases, bloated. I mentioned the other day that I think I have done pretty well myself. I want to spend in this country to invest in good things that will make this a better country. I want us to continue building and improving our roads, our schools, and the things that make this a better country. But I also believe we ought to cut back where we should.

In my State, some years ago, there was a proposal to build a new courthouse, and $46 million was put into an appropriations bill, which passed, to build a new courthouse in the largest city of my State. I thought it was way overboard, so I cut it to $23 million—in half. It was built for $19 million. Some people say: That is strange, cutting funding for your own State. But I thought it was excessive spending. I don't care whether it is my State, or other States; we need to tighten our belts and cut spending. We can cut in areas where we are spending too much, no question about that.

You don't address this unbelievable burden of debt deficit and by deciding you are going to cut your revenue as well. You cannot do that. Who will pay for this country and what it needs? We have some people at the top of the income ladder in this country who are only paying a 15-percent income tax rate—the highest income earner, 2 years ago, earned $3.6 billion—that is $300 million a month—and paid a 15-percent tax rate.

Most working people don't get to pay a tax rate that low. Some of those folks are running their companies through tax haven countries, with deferred compensation deals to even avoid paying a 15-percent rate. Somebody has to pay some taxes to invest in the future of this country. We need to invest in our children and in our infrastructure. Somebody has to pay those taxes. I understand that nobody likes to pay them very much, but we have to get control of this deficit, no question about that. We have to decide as a country that you can't ask men and women to lace up their boots and put on ceramic body armor and go halfway around the world and take a gun and fight and be shot at and, by the way, we ask you to do that in the name of our country, and we will not pay for a penny of it. We will add it to the debt. We have done that for 8 years. We cannot continue to do that. Americans know better than that.

Let me finish by saying that, as I said earlier, we should not necessarily believe that everything will be all right just because we live here in America. This country deserves good judgment and tough decisions to put the country back on track. In the book McCullough wrote on John Adams, they were putting this new country together and he was traveling in Europe. The record of all of that is in his letters to Abigail. He would write back as he was traveling abroad and ask the plaintive question: Where will the leadership come from to build this new country? From where will the leadership come? Who will be the leaders as we try to put this new country together? Then, in the next letter, he would answer the question.

There is only us to provide the leadership. There is me. There is Ben Franklin, Thomas Jefferson, George Washington, Madison, Mason. In the rearview mirror of history, the ''only us'' represents some pretty unbelievable human talent who risked their lives, risked their fortunes, risked all they had to do the right thing for this country.

The question for us now, with a $13 trillion debt, an anemic economy, great partisan divides that exist between the political parties, and elections coming up in November, the question is, From where will the leadership come? Who really is willing to lead this country by saying: Here is what we have to do? It is not pleasant always. But who is willing to make those judgments to say we cannot just always take for granted what America's future might be based on what it was? This country deserves better.

I am not here to say one party is all right and one party is all wrong. I heard my colleagues say: If you do this, it is bad for small businesses. That is not the case in any event. We have had a bill on the Senate floor that would provide assistance, help, and investment to small businesses. It has been on the floor 3 weeks, and the very people who say they are for small businesses have been blocking it for 3 weeks. All we need is some straight talk from time to time.

I would like everybody to pay the lowest possible tax rate. I would like our government to be the most efficient. I would like us to invest in the future of our country. I would like all

those things to happen. I would like it if we were not at war. I watched yesterday down at a place called the Newseum. Once again, I watched the video of 9/11/2001. That was not brought on by us; that was brought on by others, and we did not have a choice but to address these issues.

When we do these things, we must do them as a country that cares about our future. We cannot just spend money, send soldiers to war, do all these things and say: We don't have to pay for any of it and you all will understand. That is not leadership.

This President inherited a pretty tough situation. Now he is criticized for saying he inherited a tough situation. The history books will write what he inherited. He is trying pretty hard but does not get agreement on much of anything these days. At the very least we ought to say we agree, let's extend tax cuts for middle-class Americans. This is a pretty tough time for them. But we had some of the highest rates of growth in this country when the wealthiest Americans were paying the tax rate that previously existed. Extending tax cuts for the wealthy at a time when we are at war and we say we would like to extend to them an $80,000-a-year tax cut if they have a $1 million a year income? That is not leadership, in my judgment.

This country deserves better, this country can do better, and this Congress can do better with a little less partisanship and a little more thought and see if we can come together to represent the future of this country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. DORGAN. Mr. President, I forgot to put my chart up again. Every day I want to remind people what this is all about.

Will Rogers, 80 years ago, said what applies today. He said:

> The unemployed here ain't eating regular, but we'll get around to them as soon as everybody else gets fixed up OK.

We will get around to the unemployed as soon as everybody else gets fixed up OK. I am part of the Old West out in the northern Great Plains. They used to say about wagon trains: You don't move a wagon train ahead by leaving some wagons behind. This country is best when it works together.

Will Rogers described this in the 1930s:

> The unemployed here ain't eating regular, but we'll get around to them as soon as everybody else gets fixed up OK.

Wall Street got fixed up with hundreds and hundreds of billions of dollars and untold trillions from the back door of the Federal Reserve Board. They got fixed up. Now they are seeing record profits again.

There are a whole lot of folks at the bottom of the economic ladder who are not fixed up and are out of work—not from their fault, nothing they did; they are just out of work because they lost their jobs during a severe economic downturn.

It seems to me that is what requires our leadership. In this Chamber, at this moment, nobody is out of work. Everybody puts on a white shirt, a suit, and comes to work. Nobody is out of work. But a whole lot of Americans are. We ought to keep our priorities on that every single day.

This country works best when we are able to put people back to work. There is no social program this Senate is involved in, no social program as important as a good job that pays well. That is what makes everything else possible.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

SEPARATION OF POWERS

Mr. SPECTER. Madam President, I have sought recognition to comment about the serious erosion of the doctrine of separation of powers during the course of the past two decades. With the pendency of the confirmation of Solicitor General Elena Kagan for the Supreme Court of the United States, this is a particularly apt time to discuss this matter since these issues were a part of the confirmation process.

What we have found in the course of the past two decades is that Congress has lost considerable institutional authority, with the Court taking over on congressional authority or by refusing to decide certain cases, leaving the executive branch a great deal of what had been congressional authority. We find, for example, that the Foreign Intelligence Surveillance Act—where the Congress of the United States determined that the exclusive way for obtaining a wiretap on the invasion of privacy was through a court order—has been abrogated to a substantial extent by the terrorist surveillance program, which I shall speak about at a later time. Similarly, when you have the Foreign Sovereign Immunities Act, again by deciding not to take the case involving the survivors of 9/11, the Court has left the executive branch with considerable authority which, I would submit, rightfully belongs to the Congress.

But today the issue I want to discuss, and I will turn to others at a later time, is the question of how the Court has taken over more of congressional authority by moving into the area of fact finding, which is a traditional legislative responsibility.

Chief Justice Roberts, in his confirmation hearings, testified extensively, as did Justice Scalia in his confirmation hearings, about it being a legislative function to find the facts. Congress has the institutional competence to have hearings, to examine witnesses, to go into evidence, and to make a factual determination about what public policy should be. As Chief Justice Roberts said in his confirmation hearing, when the Court moves into that area, the Court is, in effect, legislating.

I submit that where the traditional doctrine of separation of powers is being altered, it is a very fundamental and serious change in our constitutional structure. Separation of powers is an integral part of the structure of the Constitution: article I for the legislative branch, article II for the executive branch, and article III for the judicial branch. This separation of powers has provided the checks and balance in our system.

But in the course of the past two decades, the Court has moved into an area where Congress had traditionally been in charge. In the case of United States v. Lopez, a 5-to-4 decision decided in 1995, the Supreme Court of the United States said legislation which limited someone from carrying a gun on school property was unconstitutional because it was not justified under the commerce clause. This was a very surprising decision because there had not been a successful challenge to the exercise of Congressional authority legislating under the commerce clause for some 60 years.

This is what Justice Souter had to say, for a four-Justice dissent, the case being a 5-to-4 decision, as so many of them are. In dissent, Justice Souter said the Court should defer to ''congressional judgment . . . that its regulation addresses a subject substantially affecting interstate commerce if there is any rational basis for such a finding. . . . The practice of deferring to rationally based legislative judgments is a paradigm of judicial restraint. . . . [I]t reflects our respect for the institutional competition of Congress on a subject expressly assigned by the Constitution to the Congress and our appreciation of the legitimacy that comes from Congress's political accountability in dealing with matters open to a wide range of possible choices. . . . The modern respect for the competence and primacy of Congress in matters affecting commerce developed only after one of the Court's most chastening experiences. . . .'' Justice Souter was referring to what happened to the Supreme Court during the New Deal era when the Supreme Court in the 1930s struck down a great many of the congressional enactments, leading to a great deal of controversy, leading to proposals to expand the number of Justices, and the famous President Roosevelt Court-packing

plan. But within what Justice Souter says, and what I have just quoted, it is a matter of legislation when the Court moves into the fact-finding process.

The Lopez case was followed 5 years later by the case of United States v. Morrison. There, the Supreme Court of the United States invalidated portions of the Violence Against Women Act, holding that they were not constitutional because of the congressional method of reasoning. Again, Justice Souter sounded the clarion call, speaking for four Justices when he said:

> Congress has the power to legislate with regard to activity that, in the aggregate, has a substantial effect on interstate commerce. . . . The fact of such a substantial effect is not an issue for the courts in the first instance . . . but for the Congress, whose institutional capacity for gathering evidence and taking testimony far exceed ours. . . . The business of the courts is to review the congressional assessment, not for soundness but simply for the rationality of concluding that a jurisdictional basis exists in fact.

Justice Souter then went on to point out that there was a mountain of evidence in support of what the Congress had decided to do.

The Supreme Court of the United States later invalidated congressional legislation in Kimel v. Florida Board of Regents, largely on the same ground. The case involved allegations of violations of age discrimination in employment, and, in the Kimel case as in the Morrison case, the Court relied upon a test where it said the act of Congress should be judged in terms of its proportionality and congruence. This test of congruence and proportionality was articulated by the Supreme Court in the City of Boerne case. It had never been a part of constitutional doctrine, and the grave difficulty is in inferring what is meant by congruence and proportionality.

In a later floor statement, I will take up two decisions of the Supreme Court of the United States, each 5 to 4, involving the Americans with Disabilities Act.

One of the problems which has been found in the confirmation process is the grave difficulty of getting an idea of the ideology of the nominees because of the refusal of the nominees to answer questions. It was thought that the confirmation proceeding of Solicitor General Elena Kagan would provide an opportunity to find out something about the approach, the ideology or philosophy of the nominee because Ms. Kagan had written so critically, in a 1995 article in The University of Chicago Law Review, about the nomination proceedings involving Justice Ginsburg and Justice Breyer.

Ms. Kagan, in that argument, criticized them for stonewalling and not answering any questions. Also, Ms. Kagan in that article criticized the Congress—the Senate, really—for not doing its job in the confirmation process and finding out where the nominees stood.

When Ms. Kagan appeared before the Judiciary Committee, it was a repeat performance. One question which I asked her brought the issue into very sharp focus. I asked her what standard would she apply, if confirmed, on judging constitutionality? Would she use the ''rational basis'' standard, which had been the standard of the Supreme Court for decades, the standard which Justice Souter talked about in the two dissenting opinions I have just referenced? Or would she use the ''congruent and proportional'' standard, which had everybody befuddled.

Justice Scalia said that the standard of proportionality and congruence is a ''flabby standard,'' which was so indefinite, vague, and unsubstantial that it left the Supreme Court open to make any determination it chose and in effect to legislate.

In later floor statements, I will take up the question as to what might be done to try to stop this erosion of the doctrine of separation of powers, what might be done to stop the reduction of Congressional authority. One line which had been suggested was to defeat nominees. As I will comment later in more detail, there does not seem to be much of a Senate disposition to defeat nominees for failure to answer questions. Based upon what has happened in every confirmation proceeding since Judge Bork's confirmation proceeding in 1987, the practice has evolved of no answers and confirmation.

Another idea was explored by Senator DeConcini and myself after the Scalia hearings, where Justice Scalia answered virtually nothing. Justice Scalia was confirmed in 1986. Justice Bork's confirmation proceeding followed in 1987, and after Judge Bork did answer questions, as he really had to with such an extensive paper trail, Senator DeConcini and I decided we didn't need to pursue the idea of a Senate standard. But that is an option which might be considered.

Another potential method of dealing with the issue would be the idea of televising the Supreme Court—which I have talked about and will talk about in some detail at a later date. Taking off on what Justice Brandeis said about sunlight being the best disinfectant, and publicity being the way, as Justice Brandeis put it in a famous article in 1913—being the way to deal with social ills.

In an article in the Washington Post on July 14, just a couple of weeks ago, a noted commentator on the Supreme Court, Stuart Taylor, said that the only way the Supreme Court would change its ways is if there was an infuriated public. To infuriate the public, the first thing that has to happen is for the public to understand what the Supreme Court is doing.

In light of the lateness of the hour, that is a subject which I will take up at a later time in detail. But the focus today is on the three cases: the Lopez case, the Morrison case, and the Kimel case.

I thank the staff for staying overtime. I know there had been a hope to conclude a few minutes earlier, by 6, but we are not too far gone considering tradition on the Senate floor of extended presentations.

I believe there is an announcement the clerk would like me to make in concluding the proceedings today?

MORNING BUSINESS

Mr. SPECTER. Madam President, I ask unanimous consent to 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.

20TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

Mr. DODD. Madam President, I rise today to commemorate the 20th anniversary of the passage of the Americans with Disabilities Act.

The enactment of this important legislation was a significant milestone in our national journey to perfect our Union, uphold our founding values, and reaffirm our commitment to ensuring that the rights enshrined in our Constitution are truly available to all of our citizens. I was honored to have been able to support this bill in 1990, and am proud to be here today to talk about what its enactment means to millions of our fellow Americans, as well as to celebrate the contributions of those whose tireless work, and undying support, made passage of this bill a reality.

Thanks to this landmark law, our country has made progress in eliminating the historical stigma previously associated with mental and physical disabilities. It is also a critical step toward guaranteeing basic civil rights for an entire population who, for much of our Nation's history, have faced incredible unfairness and isolation. For decades, we have fought for the civil rights of people with disabilities, combating the antiquated mindsets of segregation, discrimination, and ignorance. Our Nation has come from a time when the exclusion of people with disabilities was the norm. We have come from a time when doctors told parents that their children with disabilities were better left isolated in institutions. We have come from a time when individuals with disabilities were not considered contributing members of society.

Those times have thankfully changed. The passage of the ADA in 1990 provided the first step toward that change our country so desperately needed, and 20 years later, many of these individuals are thriving in ways that a few short years ago, would have been unthinkable. More and more, individuals with disabilities are able to integrate into communities across America. Thanks to the ADA, they are finding employment, buying their first home, and enjoying our public parks,

transportation, and other civic facilities far more successfully than ever before.

Just as I was a proud supporter of the ADA then, I was a proud supporter of the resolution which the Senate passed last week, introduced by my colleagues Senators HARKIN and HATCH, commemorating the 20th anniversary of that historic achievement. I would like to thank Senator HARKIN in particular for his leadership on the passage of the ADA.

I would also like to thank my former Connecticut colleague, Lowell Weicker, who, as a Senator in 1988, was the original sponsor of the legislation that went on to become the Americans with Disabilities Act, and is still a national leader in advocating for individuals with disabilities.

Without their tireless efforts and support, it would not have been possible to pass this legislation those 20 years ago.

Equal protection under the law is not a privilege in the United States of America—rather, it is a fundamental right due every citizen, regardless of race, gender, national origin, religion, sex, age, or disability. It is unacceptable to deny any individual his or her right to those protections because of a disability. Our country has an obligation to its citizens to ensure that their fundamental rights are protected, and, if those rights are violated, that the appropriate recourse is available.

In 2008, the overall percentage of people with a disability in my home State of Connecticut was 10.4 percent; approximately 350,000 residents. That is 350,000 reasons why 20 years later, I am proud of—and somewhat awed by—the impact this bill has made. And that is just in my home State. Across the entire country, more than 50 million people have been aided by the passage of this historic legislation.

The resolution that we passed in this body last week honors and commemorates the 20th anniversary of the ADA. We passed it 100–0. This strong, bipartisan statement underscores the far reaching importance of this landmark law. I am proud to not only have been able to vote for its passage those 20 years ago, but also to have been an original cosponsor along with several of my colleagues still present in this body, including Chairman HARKIN.

As we take this opportunity to commemorate the tremendous advances the disability community has made, we must not forget the steadfast support of the wide network of groups and individuals who have made it their mission to help every single American, despite his or her disability, reach his or her fullest potential, and which made this extraordinary achievement possible.

I have worked closely with these groups throughout my tenure in the Senate to ensure they have gotten the support they need from the Federal Government, especially the Consortium for Citizens with Disabilities. I thank them for their support and assistance, and truly value the working relationships I have established over my entire career.

In my capacity as a senior member of the Senate Committee on Health, Education, Labor, and Pensions, I have spent my career fighting alongside my colleagues to improve the lives of people with disabilities. Some of the most important pieces of legislation I have introduced or supported throughout my career have been to further that goal. From the Disability Savings Act, a bill I introduced in 2008 which would encourage individuals with disabilities and their families to start disability savings accounts for their unique disability-related needs, to the Best Buddies Empowerment for People with Intellectual Disabilities Act, a bill I introduced earlier this Congress with Senator HATCH which promotes the expansion of that acclaimed program. I am hopeful we can pass this important legislation this year.

I am also pleased that the recently enacted Patient Protection and Affordable Care Act makes further progress toward meeting the needs of the disabled community. That legislation incorporates an important idea known as the CLASS Act, which creates a voluntary disability insurance program designed to pay for nonmedical and support services so that persons with disabilities are able to live independently. Getting this program started was a remarkable achievement, and something many of my colleagues and I had worked for many years to accomplish.

Of course, none of the important advances we have made, legislatively or otherwise, would have been possible without the tireless work of one of the great advocates for equal opportunities for individuals with disabilities that the Senate has ever seen—my dear friend, the late Senator Ted Kennedy. For Teddy, the issue of fairness and empowerment for individuals with disabilities was always in the forefront of his mind and legislative agenda. Along with his late sister Eunice Kennedy Shriver, his commitment to this issue, which touches so many of our fellow citizens, is a legacy that we must seek to preserve and to continue.

On this, the 26th day of July 2010, I urge my colleagues and fellow citizens to celebrate the freedom and opportunities provided by the Americans with Disabilities Act, and recognize the strides we have made to raise the employment and graduation rates, increase self-sufficiency, and very simply, lift the self-esteem of those who for too long were denied these opportunities.

As we strive to perfect our Union, we must remember that we are a just society. We are a society that has enshrined the notion of equality, both in rights and opportunity, for all in our very founding documents. We must continue to reaffirm the promise made in those documents to each citizen, no matter their race, creed, or circumstance.

The passage of the Americans with Disabilities Act is one example of how we have worked to keep those promises. It represents a successful step toward fulfilling our Nation's goals of equality of opportunity, independent living, economic self-sufficiency, and full participation for Americans with disabilities. It has been a tremendous honor to have been able to support this law, and as I look back on the good it has done, 20 years later, I am confident that future generations will continue to build on its success as a cornerstone to ensuring that all Americans have equal access to the American dream.

Mrs. LINCOLN. Madam President, I join Arkansans and all Americans to commemorate the 20th anniversary of the Americans with Disabilities Act, known as ADA. This legislation has literally opened doors for countless Arkansans living with disabilities.

ADA protects the civil rights of all people with disabilities by expanding opportunities for Arkansans and all Americans with disabilities and by reducing barriers, changing perceptions and allowing all Americans to go to the schools of their choice, gain meaningful employment, and fully participate in community life.

This week, communities across Arkansas will commemorate the 20th anniversary of ADA with events and celebrations, including construction of wheelchair ramps by volunteers and a 5K Roll n' Walk Run event on the Fayetteville trail system in northwest Arkansas.

I commend these volunteers and participants for their dedication to ensuring that Arkansans with disabilities have full access to the resources they need, in addition to promoting ADA's anniversary.

On the 20th anniversary of the Americans with Disabilities Act, I join my fellow Arkansans to celebrate this historic legislation that has touched the lives of so many in our State and Nation.

REMEMBERING SENATOR ROBERT C. BYRD

Mrs. HUTCHISON. Madam President, I join my colleagues in paying tribute to our colleague Robert Byrd of West Virginia. He served his beautiful mountain State for a record-setting 57 years in Congress, including 51 years in this Chamber. He cast more rollcall votes and served in more leadership positions than any other Senator in U.S. history, including 12 years as his party's leader. He revered this body so much that he wrote four volumes on Senate history from 1789 to 1989. Over nine terms, he mastered parliamentary procedure in an effort to protect the Senate's rules and to defend the legislative branch's authority. He carried a copy of the Constitution in his pocket, and he peppered his speeches with frequent references to the intent of our Framers. When asked how many Presidents he had served under, he replied, ''None. I

have served with Presidents, not under them.''

Senator Byrd will enter the history books as one of the Senate's true giants, but his beginnings were humble. His biography is a shining testament to the American dream. He was adopted in infancy and raised in impoverished coal-mining towns. His first job was to collect garbage scraps for his family's hogs. Although he graduated valedictorian of his 1934 high school class, at first he could not afford college. He married his high school sweetheart, Erma Ora James, with whom he enjoyed 68 happy years. The outstanding work ethic and solid values that he learned while growing up in Raleigh County helped him later devote 10 grueling years of his life to studying while simultaneously serving as a Member of Congress. When he finally earned his law degree in 1963, President John F. Kennedy awarded him his diploma.

Senator Byrd served his beloved home State with unprecedented devotion. He wrote in his autobiography that ''it has been my constant desire to improve the lives of the people who have sent me to Washington time and again.'' Virtually every county in West Virginia will long remember his hard work, dedication, and legendary contributions. Like many Americans today, I commend him for his outstanding service to his State, to our Nation, and to the institution of the Senate.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS MICHAEL SHANE PRIDHAM, JR.

Mr. BAYH. Madam President, I rise today to honor the life of PFC Michael Shane Pridham, Jr. of the U.S. Army.

Private Pridham was assigned to the 1st Battalion, 4th Infantry Regiment. He was only 19 years old when he lost his life serving bravely in support of Operation Enduring Freedom in Qalat, Afghanistan. He was 6 weeks from completing his tour of duty.

Private Pridham—''Mikey'' as he was to known to his family and friends—was from Louisville, KY. He attended Southern High School before later earning his GED diploma through the U.S. Army.

Today, I join Private Pridham's family and friends in mourning his death. He is survived by his wife Deidre, whom he married 2 days before deploying overseas and who is expecting the couple's first child, Aliyah, in October; his father and stepmother, Michael Shane and Andrea Pridham Sr. of New Albany, IN; his mother, Keri Allen of Louisville, KY; and his brothers, Jeffrey Pridham, Joey Pridham, Kaleb Nix and Kaden Eskridge.

We take pride in the example of this American hero, even as we struggle to express our sorrow over this loss. We cherish the legacy of his service and his life.

As I search for words to honor this fallen soldier, I recall President Lincoln's words to the families of the fallen at Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.''

It is my sad duty to enter the name of PFC Michael Shane Pridham, Jr. in the RECORD of the U.S. Senate for his service to our country and for his profound commitment to freedom, democracy and peace.

I pray that Mikey's family finds comfort in the words of the prophet Isaiah, who said: ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

WALL STREET REFORM AND CONSUMER PROTECTION ACT

Mr. BROWN of Massachusetts. Madam President, I come to the floor of the Senate to talk today about the recently passed Wall Street reform bill.

I believe elected officials should come to Washington to solve problems not ignore them. The American people know that we need to enact major changes to our financial regulatory system. With the bill that passed into law earlier this month, Congress has begun the process of repairing a regulatory system that did not work as it should have and contributed to the financial meltdown that shook our economy in 2008. This action, long overdue, will help our regulatory structure catch up with the realities of the market so as to provide a more secure economy. Although no bill will ever be perfect, and I remain seriously concerned that we must take further actions if we are going to prevent another financial crisis, this bill takes important steps towards greater market transparency and consumer protection. It will help make sure that taxpayers are never again put on the hook for bailing out the financial sector. It strengthens the regulatory safety net in key respects. For these reasons, I supported cloture motions and final passage of the Wall Street Reform and Consumer Protection Act.

I did my utmost to work in a bipartisan manner on this bill, filing or cosponsoring 27 amendments, working across the aisle on almost all of them. For example, we amended the bill to remove unnecessary provisions that would have severely constricted small startup businesses around the country as they worked to raise capital from angel investors. Massachusetts is one of America's hotbeds for innovation and business startups, and I was proud to stand up for small startup businesses and the investors who help give life to their ideas. Another amendment I proposed with Senator JACK REED of Rhode Island, which was adopted 99–1, created a dedicated liaison office for military families within the Consumer Financial Protection Bureau, so that members of our Armed Forces and their families can fight back when they are targeted by unscrupulous lenders or sold fraudulent life insurance policies. As a 30-year member of the National Guard, I have seen the pain caused when members of the Guard are hit by financial predators. I was also proud to join my colleagues in supporting assessment and regulatory relief for small community banks and a safer role for the credit rating agencies in our financial system.

Since the Senate Committee on Banking, Housing, and Urban Affairs did not hold a full markup of the bill before it came to the Senate floor, I spent a lot of time exploring how certain provisions were drafted and how they might work if enacted into law. One of those areas was the so-called Volcker rule. I believe that the principles behind the Volcker rule, which was proposed in earnest only after the House had passed its own Wall Street Reform bill, are very well-intentioned and in many respects will be quite effective. The Volcker rule was conceived as a way to limit certain risky proprietary trading activities so that Wall Street firms start to look more like the safe banks, mutual funds, and insurance companies we have in Massachusetts. After the collapse the country suffered, no one can argue with a straight face anymore that all banks should be able to take huge risks on anything they want, whenever they want, without any regard to the consequences. This was an important issue for financial institutions and regulators across the country. Senator KAY HAGAN of North Carolina also worked hard to find the right balance within the Volcker rule for bank asset management, and I would like to associate my views with her statements in the Senate RECORD on this topic.

Without changes, the original Senate bill would have unreasonably regulated limited purpose trusts—institutions throughout our Nation that never should have been captured in the regulatory ''net'' of Volcker rule bank regulation. Since the drafting did not match the intent, this problem was addressed by clarifying that these companies should not be subject to bank holding company oversight or the Volcker rule restrictions by virtue of operating a limited purpose trust regardless of charter. In other words, bank regulation should only apply to the trust itself, not its parent and affiliates. Without this clarification, the Volcker rule restrictions, as well as the capital requirements under the adopted Collins amendment, would have led to widespread disruption in providing products and services to customers and investors, job losses, and uncertainty around the nation. The final version of the legislation appropriately does not regulate institutions with limited

trusts—including mutual funds and insurance companies—because these institutions do not take customer deposits, make loans, or access the Fed discount window.

The original Volcker rule also would have gone too far in preventing banks from offering appropriate investment services to their clients as a limited and safe part of their business model. At a time of deep economic uncertainty, when millions of Americans are looking for work, this could have a devastating impact on jobs in Massachusetts and across the country while unfairly targeting safe institutions and driving their business to riskier ventures. Even the Glass-Steagall law clearly permitted banks to serve as investment advisers, and yet the original Volcker rule language threatened the ability of banks to offer these services, including seeding new investment funds that they then offer to clients.

Bank-affiliated investment funds are sponsored for clients and comprised almost entirely of client money. Most are not excessively speculative or risky investment vehicles—they include simple cash funds, stock index funds, and other nonleveraged strategies. Preventing banks from offering such services, which provide banks with a steady source of fee income, will make the banks more reliant on other more volatile revenue streams—a danger the bill was supposed to head off. Furthermore, in order to remain in the asset management business, these banks must be allowed to invest a very small amount alongside their clients in these funds so that all interests are aligned. Many large state pension plans, as well as large endowments and foundations, value such ''skin in the game'' investments as a key factor in deciding with whom they will place their money.

If banks can't offer these services or invest a small amount to seed funds and keep skin in the game, institutional investors will be forced to take their money elsewhere, and in many cases, that will be to less regulated hedge and private equity funds. In negotiations during Senate consideration of the legislation, I advocated for limiting the maximum aggregate investment level in all bank affiliated funds to somewhere in the vicinity of 5 percent of a bank's tier 1 capital. In the end, the final compromise landed on 3 percent. Although it could be higher, this is an appropriate role for alternative asset management within the banking industry.

To put this number in perspective, even if all of these investments collapsed, the bank losses would equal only half of the typical losses charged off from bank retail lending operations last year. To address concerns that fresh bank capital could be put at risk in the event of a fund failure, the final language makes it explicit that these investment funds are segregated and that it is against the law for the banks to bail them out. It is also important to remember that new systemic risk authorities have been created to identify and halt activities at key firms that threaten financial stability.

One other area of remaining uncertainty that has been left to the regulators is the treatment of bank investments in venture capital funds. Regulators should carefully consider whether banks that focus overwhelmingly on lending to and investing in start-up technology companies should be captured by one-size-fits-all restrictions under the Volcker rule. I believe they should not be. Venture capital investments help entrepreneurs get the financing they need to create new jobs. Unfairly restricting this type of capital formation is the last thing we should be doing in this economy.

Another area of potential confusion is in the language governing ''fund of funds.'' These are funds that invest in a wide range of other investment partnerships, hedge funds or private equity funds, so that investors can benefit from the good investment ideas of a variety of funds. Banks' investments in the fund of funds that they sponsor for clients are to be limited under this bill to only 3 percent of the fund. But that fund, which will be comprised of, at a minimum, 97 percent client money, under Dodd-Frank, is not restricted as a percentage of any of those investment partnerships, hedge funds, or private equity funds that it might be invested in, because the bank's exposure is still limited to 3 percent in the original fund, mitigating any chance of a concentration risk or bailout incentive.

Finally—and this should go without saying—I want to make it clear that throughout all the negotiations to write the legislative language of the conference report, it was always clear to me that the Volcker rule was never intended to prohibit banks from offering alternative investment options as a part of a company-wide retirement plan, or as an offering to ERISA customers. Any other regulatory treatment would be arbitrarily punitive and would have no public policy impact. The legislation is clear on this, but I would also like to point out that the FDIC-sanctioned traditional bond and equity market investments made by small community banks for the purpose of diversification are not the intended target of Volcker rule restrictions.

I want to spend a moment or two discussing consumer protection—one of the most controversial elements of this bill. During the crisis, more than half of the people who ended up in subprime mortgages with ballooning rates would have qualified for more conventional fixed rate loans. Some of that was caused by consumer greed, but it was also because of bad incentives and deceptive practices where the true costs of loans were hidden in the fine print. The new CFPB has the power to use its broad authority to simplify and dramatically improve the quality of information going to the consumer, and I expect that's how they will use their authority. I also expect that unifying financial consumer protection under one roof at the Federal Reserve will help to simplify and consolidate some of the compliance burdens on our financial institutions. Talking to local bankers, it is clear that banks are being forced to spend a lot more money and time on compliance. I worry about community banks' ability to compete in this area with the bigger banks. I am hopeful that the CFPB will improve the current state of affairs on both of these fronts.

There are a number of other provisions in the bill that bear review. Section 113 of the conference report details multiple criteria that must be considered by the Financial Stability Oversight Council to determine that an institution is a ''nonbank financial company supervised by the Board of Governors.'' These criteria should not be given equal weighting. In fact, the Council should place most of the weight on one important measure—the leverage of the financial institution. If the recent financial crisis has proven anything, it has demonstrated the systemic de-stabilization that can be caused when too many firms are overleveraged, with only a slim cushion available to absorb losses. Excessive leverage is by far the most dangerous characteristic for any business. A poorly run company that faces numerous problems can feel relatively safe if it has limited leverage; conversely, a thriving, profitable company that has excessive leverage can be wiped out after a single stumble. As a result, leverage should be the primary consideration when deciding whether to put a financial institution into the special category of ''nonbank financial company supervised by the Board of Governors.''

I also believe that the size of an institution should be de-emphasized as a consideration for making determinations as to which companies are ''nonbank financial companies supervised by the Board of Governors.'' There is nothing inherently destabilizing or risky about the size of a large company. If anything, size usually coincides with significant benefits, including economies of scale and a diverse portfolio of assets. The Council and regulators should be very careful not to use size as a proxy for risk or it will capture some very healthy companies in the Fed supervisory web while simultaneously discouraging the growth of up-and-coming firms. Size is not as important a factor when it comes to the safety and soundness of an institution and it should be given less weight as a consideration.

Furthermore, considering the burdens that come with being categorized a ''nonbank financial company supervised by the Board of Governors,'' it is critical that the Council make its determinations on a company-by-company basis and not attempt to make determinations by grouping multiple

institutions together based solely on a set of similar characteristics. For instance, the Council should never make a determination that all firms in a financial subsector that are above a predefined size should be ''nonbank financial companies supervised by the Board of Governors.'' This would inevitably subject otherwise healthy firms to a long list of unnecessary regulations and will distract regulators from focusing on the most potentially problematic financial firms and activities.

In title II of the bill, the orderly liquidation authority includes provisions that allow the FDIC to unwind firms that threaten stability. While I repeatedly supported amendments that would have relied more heavily on the bankruptcy code rather than this approach, I also believe that if used appropriately, resolution authorities can be an important and useful tool in unwinding financial institutions that threaten market stability. I will be watching closely as these provisions are implemented by the FDIC. Under this section, the FDIC has the power to ''take any action'' to provide disparate treatment to similarly situated creditors if the FDIC ''determines that such action is necessary to maximize the value of assets of the covered financial company; to initiate and continue operations essential to the receivership of the financial company; to maximize the present value return from the sale or other disposition of the assets of the covered financial company; or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company.''

Without clear rule writing, this language could be wrongly interpreted to include a range of unnecessary, arbitrary actions to favor certain creditors. Instead, the FDIC should only provide disparate treatment to similarly situated creditors if the sole purpose of the action is to cover the cost of indispensable services required to keep the physical operations of the financial institution or bridge financial company functioning during the early stages of liquidation. Examples of such services include the delivery of electricity, computer maintenance and janitorial services. The flexibility in these provisions should not be used by the FDIC to provide disparate treatment to holders of financial instruments, especially financial instruments that are widely distributed and held by multiple parties. For instance, issuances of loans, notes and bonds are normally held by various parties. The FDIC should not use its authority to discriminate among holders of the same instrument or holders that own different instruments that hold the same unsecured priority. In other words, it would be a clear abuse of these provisions if the FDIC makes a determination to provide disparate treatment to similarly situated creditors based on ''who'' owns the claim. The FDIC should take all necessary precautions to avoid even the impression of playing political favorites.

The expectation of receiving a financial return consistent with similarly situated creditors is a bedrock principal of American capitalism. It is my hope and expectation that the FDIC will fulfill its obligations and report to Congress any actions that involve any different treatment of similarly situated creditors under resolution authority. The FDIC should disclose the details of any parties given disparate treatment and the categories and names of similarly situated parties that did not receive the benefits of this treatment; how much, in absolute dollars, and as a percentage of its claim, a favored recipient of the disparate treatment received, and how that compares to the returns realized—or may be realized—by similarly situated creditors who did not receive the favorable treatment; and a thorough explanation as to why the treatment was necessary to maintain the physical operations of the financial institution or relevant entity, including an analysis of any conflicts of interest that the FDIC, or related government authorities, may have had when providing the disparate treatment.

I also want to be clear about my views on derivatives regulation. The derivatives title of the law is extremely important, and if implemented appropriately, will bring much needed transparency and accountability to a market that played a central role in the near collapse of our financial services sector in the fall of 2008. This bill appropriately regulates large Wall Street swap dealers for the first time by subjecting them to new clearing, capital and margin requirements. But these provisions also could significantly impact thousands of end-user firms that use derivatives to reduce their exposure to risk rather than merely to speculate. It is very important that we manage how this bill impacts these Main Street businesses. If the regulations imposed on swap dealers are inappropriately extended to Main Street businesses that are only trying to hedge risks, we could unwittingly exacerbate the economic challenges we still face. Many experts think that greater transparency will drive risk-management costs down for businesses in the long run, but the government clearly needs to go about the implementation of these provisions very carefully.

While the conference report has many good features, it also suffers from a glaring omission: any attempt to regulate government-sponsored enterprises—Fannie Mae and Freddie Mac. These institutions played a key role in triggering the financial crisis we suffered. To date, over $140 billion of taxpayer funds have been spent bailing out Fannie and Freddie, and estimates of additional risk to taxpayers runs into the hundreds of billions of dollars. We clearly need to address these institutions, which risk burdening future generations of Americans with mountains of debt. I look forward to working on this issue as soon as Congress and the administration move forward on legislative proposals.

I believe we had a choice: do nothing or try to address a real problem that shook the very financial foundation of our country. While the bill was far from perfect, the final version was vastly improved from the version we started with at the beginning of the process. I believe it includes important measures that will help prevent another financial meltdown like the one in 2008 that left millions of Americans out of work and saw our economy take its worst dip since the Great Depression. Equally important, the bill is not funded through higher taxes, which is something I could not support at a time when nearly one in ten Americans is unemployed and our economy is still struggling.

ADDITIONAL STATEMENTS

NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATION

• Mr. BUNNING. Madam President, I would like to recognize the 50th anniversary of the National Association of State Boating Law Administrators, NASBLA, a Kentucky-based nonprofit organization.

Recreational boating is one of America's most popular pastimes with over 13,000,000 recreational vessels registered nationwide, of which 200,000 are in my home State of Kentucky. In 1958, Congress recognized the growing interest in recreational boating, and passed the Federal Boating Act, which led to the creation of the National Association of State Boating Law Administrators in 1960. NASBLA is a national, nonprofit association of State officials responsible for the development and implementation of State boating programs.

NASBLA's mission is to strengthen the ability of State and territorial boating authorities to ensure a safe, secure, and enjoyable recreational environment. NASBLA addresses its mission by fostering partnerships among States, the Coast Guard, and others to streamline boating laws, maintain national education standards, strengthen homeland security on our waterways, and communicate to Federal agencies on behalf of the States' boating programs. The tireless work of NASBLA has helped to significantly reduce the number of recreational boating fatalities since 1970. However, even with such progress in safety, there is still room for improvement. In 2008, recreational boating accidents still claimed the lives of 709 Americans, of which more than half may have been saved with the proper use of a personal flotation device.

Due to the efforts of the National Association of State Boating Law Administrators and its members over the last

five decades, our Nation's waterways are safer and more enjoyable for the boating public. I congratulate the NASBLA as it celebrates 50 years of service and wish it great success over the next 50 years.●

TRIBUTE TO SERGEANT DAVID COLLINS

● Mrs. LINCOLN. Madam President, today I honor Sergeant David Collins of Maumelle, who was recently named Officer of the Year for 2009 by the Maumelle Police Department. Sergeant Collins has worked for the department since 1992. I commend his commitment and dedication to protecting Maumelle residents.

Along with all Arkansans, I recognize the courage, bravery, and dedication of our Arkansas law enforcement, who risk their lives each day to keep our citizens safe. I thank these public servants for their service and sacrifice.●

TRIBUTE TO CAROLYN W. MOSLEY

● Mrs. LINCOLN. Madam President, today I congratulate Carolyn W. Mosley of Fort Smith for her outstanding contributions to the field of nursing education in our state. In recognition of her efforts, she will be inducted as a fellow into the National League for Nursing's Academy of Nursing Education in October in Las Vegas. Ms. Mosley currently serves as dean of the College of Health Sciences at the University of Arkansas at Fort Smith.

Only 86 nurses worldwide have achieved the recognition. Ms. Mosley is among 19 new fellows from 17 nursing schools to be inducted this year. She is the only fellow chosen from Arkansas. The association itself has 31,000 individual and 1,200 institutional members.

Ms. Mosley has also served as a human rights expert for the International Council of Nursing, received the Rosalyn Carter Caregiving Recognition Award, and the Robert Wood Johnson Executive Nurse Fellow Award. She serves as Good Samaritan Health Clinic Board vice president, Sparks Regional Medical Center Investigational Review Board chairwoman, Sparks Board trustee, and St. James Missionary Baptist Church Board president.

Madam President, Ms. Mosley serves as a role model for anyone aspiring to make a difference in nursing education and the field of health care. She represents the best of Arkansas, and I am proud of her achievements. Along with all Arkansans, I commend her for this extraordinary accomplishment.●

ARKANSAS GOSPEL ANNOUNCERS GUILD HONOREES

● Mrs. LINCOLN. Madam President, today I recognize six Arkansans who were recently honored by the Arkansas Gospel Announcers Guild for their contributions to gospel music and the community. I commend them for their dedication to this beloved American art form, which has a strong tradition in Arkansas.

Honorees were: Elijah and Belinda Mondy, KJIW Radio, Radio Broadcast Excellence; Charles Moore, Arkansas Gospel Mass Choir, Gospel Music Excellence; Irene Perkins, Irene's Productions, Gospel Promotions; C. Michael Tidwell, Centre for the Dansarts, Inspired Excellence—Liturgical Dance; and Deacon Alvin White, KITA/KOKY, Lifetime Achievement.

As a farmer's daughter from Helena, AR, who grew up in the heart of the Mississippi Delta, I have been surrounded by the unique traditions of gospel music all my life and am appreciative of its importance to the faith community in my State. With its roots in African-American culture, gospel music has grown beyond the church walls and is now firmly rooted in the American music tradition.

Gospel music is an integral part of our Nation's history and heritage. Along with all Arkansans and all Americans, I honor these individuals who have dedicated so much of their time, energy, and talents to promoting gospel music in our State.●

ARKANSAS DEPARTMENT OF EMERGENCY MANAGEMENT

● Mrs. LINCOLN. Madam President, today I recognize the men and women of the Arkansas Department of Emergency Management for their tireless dedication to keeping the residents of our State safe and secure.

Because of their efforts, the department was recently granted full accreditation by the Emergency Management Accreditation Program, known as EMAP. Arkansas is one of only 22 other States and jurisdictions with accredited programs.

Mr. President, I commend all of our emergency responders for their commitment to protecting the citizens of our State.

Along with all Arkansans, I thank the Arkansas Department of Emergency Management for their work to identify and lessen the effects of emergencies, disasters and threats to Arkansas through effective prevention, preparedness, mitigation, response and recovery actions for all disasters and emergencies.

I congratulate the entire team at the Department of Emergency Management for achieving this prestigious accreditation.●

NATIONAL HORSESHOE PITCHING CHAMPIONSHIPS

● Mrs. LINCOLN. Madam President, today I am proud to recognize 10 Arkansans who are currently competing in the National Horseshoe Pitchers Association 2010 Pitching Championships in Cedar Rapids, IA. The 2-week event is held each summer and features eight divisions in which pitchers compete for $170,000 in prizes and scholarships.

Arkansas has a strong horseshoe pitching tradition, with tournaments held throughout the State from March to November. These tournaments bring together Arkansans of all ages to enjoy wholesome recreation and learn new techniques to improve their skills to be more successful in horseshoe pitching. It is one of the few sports that has a national champion for men, women, boys and girls and can still be played in one's backyard by young and old alike.

I commend the entire Arkansas Horseshoe Pitchers Association for promoting the sport and art of horseshoe pitching. I also applaud our Arkansas representatives in this year's national championship for their spirit of competition and their commitment to their sport.

I join all Arkansans in wishing them the best of luck as they represent our State.●

MESSAGE FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1469. An act to amend the National Child Protection Act of 1993 to establish a permanent background check system.

H.R. 5341. An act to designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the ''Joyce Rogers Post Office Building''.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bill and joint resolution:

H.J. Res. 83. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

S. 1053. An act to amend the National Law Enforcement Museum Act to extend the termination date.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES REFERRED

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

H.R. 1469. An act to amend the National Child Protection Act of 1993 to establish a permanent background check system; to the Committee on the Judiciary.

H.R. 5341. An act to designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the ''Joyce Rogers Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3643. A bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil

spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

REPORTS OF COMMITTEES DURING ADJOURNMENT

Under the authority of the order of the Senate of January 6, 2009, the following reports of committees were submitted on July 23, 2010:

By Mrs. MURRAY, from the Committee on Appropriations, without amendment:

S. 3644. An original bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2011, and for other purposes (Rept. No. 111–230).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1862. A bill to provide that certain Secret Service employees may elect to transition to coverage under the District of Columbia Police and Fire Fighter Retirement and Disability System (Rept. No. 111–231).

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs:

Report to accompany S. 3638, An original bill to establish a national safety plan for public transportation, and for other purposes (Rept. No. 111–232).

By Mrs. BOXER, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3562. To designate the federally occupied building located at 1220 Echelon Parkway in Jackson, Mississippi, as the ''James Chaney, Andrew Goodman, and Michael Schwerner Federal Building''.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS DURING ADJOURNMENT

On July 23, 2010, under the authority of the order of the Senate of January 6, 2009, the following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MURRAY:

S. 3644. An original bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2011, and for other purposes; from the Committee on Appropriations; placed on the calendar.

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. MURRAY:

S. 3645. A bill to direct the Secretary of Education to establish and administer an awards program recognizing excellence exhibited by public school system employees providing services to students in pre-kindergarten through higher education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LIEBERMAN:

S. 3646. A bill to provide for the furnishing of statues by the District of Columbia for display in Statuary Hall in the United States Capitol; to the Committee on Rules and Administration.

By Mr. TESTER:

S. 3647. A bill to amend the Public Health Service Act to provide for the participation of particular specialists determined by the Secretary of Health and Human Services to be directly related to the health needs stemming from environmental health hazards that have led to its declaration as a Public Health Emergency to be eligible under the National Health Service Corps in the National Health Service Corps Loan Repayment Program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN (for himself, Mr. THUNE, Mr. CONRAD, and Mr. JOHNSON):

S. 3648. A bill to establish a commission to conduct a study and provide recommendations on a comprehensive resolution of impacts caused to certain Indian tribes by the Pick-Sloan Program; to the Committee on Indian Affairs.

By Mr. ROCKEFELLER (for himself and Mr. GOODWIN):

S. 3649. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to provide for use of excess funds available under that Act to provide for certain benefits, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself, Mr. AKAKA, Mr. VOINOVICH, Ms. COLLINS, Ms. LANDRIEU, and Mr. LIEBERMAN):

S. 3650. A bill to amend chapter 21 of title 5, United States Code, to provide that fathers of certain permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligibles for treatment in the civil service; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 369

At the request of Mr. KOHL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 369, a bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market.

S. 653

At the request of Mr. CARDIN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 984

At the request of Mrs. BOXER, the name of the Senator from Maryland (Mr. CARDIN) 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. 1612

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1612, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 2128

At the request of Mr. LEMIEUX, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2128, a bill to provide for the establishment of the Office of Deputy Secretary for Health Care Fraud Prevention.

S. 2750

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2750, a bill to amend the Public Health Service Act to authorize the Secretary of Health and Human Services to make grants to eligible States for the purpose of reducing the student-to-school nurse ratio in public secondary schools, elementary schools, and kindergarten.

S. 2755

At the request of Mr. MENENDEZ, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2755, a bill to amend the Internal Revenue Code of 1986 to provide an investment credit for equipment used to fabricate solar energy property, and for other purposes.

S. 2801

At the request of Mr. FRANKEN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2801, a bill to provide children in foster care with school stability and equal access to educational opportunities.

S. 2920

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 2920, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 3079

At the request of Mr. MERKLEY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3079, a bill to assist in the creation of new jobs by providing financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy efficient building equipment and materials and for other purposes.

S. 3339

At the request of Mr. KERRY, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor 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. 3390

At the request of Mr. FRANKEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor

of S. 3390, a bill to end the discrimination based on actual or perceived sexual orientation or gender identity in public schools, and for other purposes.

S. 3401

At the request of Mr. BURR, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3401, a bill to provide for the use of unobligated discretionary stimulus dollars to address AIDS Drug Assistance Program waiting lists and other cost containment measures impacting State ADAP programs.

S. 3434

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3434, a bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes.

S. 3510

At the request of Mr. CONRAD, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 3510, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.

S. 3572

At the request of Mrs. LINCOLN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 3572, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first law enforcement agency, the United States Marshals Service.

S. 3578

At the request of Mr. JOHANNS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 3578, a bill to repeal the expansion of information reporting requirements for payments of $600 or more to corporations, and for other purposes.

S. 3581

At the request of Mr. LUGAR, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 3581, a bill to implement certain defense trade treaties.

S. 3617

At the request of Mr. BINGAMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3617, a bill to amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes.

S. 3622

At the request of Mr. JOHANNS, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3622, a bill to require the Administrator of the Environmental Protection Agency to finalize a proposed rule to amend the spill prevention, control, and countermeasure rule to tailor and streamline the requirements for the dairy industry, and for other purposes.

S. 3628

At the request of Mr. SCHUMER, the names of the Senator from Colorado (Mr. UDALL), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New York (Mrs. GILLIBRAND), the Senator from Oregon (Mr. WYDEN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 3628, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

S. 3643

At the request of Mr. MCCONNELL, the names of the Senator from Utah (Mr. BENNETT), the Senator from Wyoming (Mr. BARRASSO), the Senator from Texas (Mr. CORNYN) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 3643, a bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

S. RES. 519

At the request of Mr. DEMINT, the name of the Senator from Wyoming (Mr. BARRASSO) 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.

S. RES. 586

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 586, a resolution supporting democracy, human rights, and civil liberties in Egypt.

AMENDMENT NO. 4471

At the request of Mr. CORNYN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of amendment No. 4471 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4476

At the request of Mrs. HUTCHISON, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 4476 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER (for himself and Mr. GOODWIN):

S. 3649. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to provide for use of excess funds available under that Act to provide for certain benefits, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Coalfield Accountability and Retired Employee Act of 2010, CARE Act. Senator GOODWIN joins me in introducing this important legislation. It is the first bill we have worked together on, and I look forward to many more as partners in the Senate fighting for West Virginians.

The CARE Act protects the pensions for over 100,000 mineworkers. It takes excess funds from the Abandoned Mine Land Reclamation Program and transfers that money to the United Mine Workers of America, UMWA, pension plan. These are AML funds that go unused and are not needed, according to the Office of Surface Mining Reclamation and Enforcement and the UMWA. So what our legislation does is put that money to good use, and protects the pensions of our hardworking mineworkers.

Congress needs to act because the UMWA pension fund is on the road to insolvency. It has been hit by the perfect storm—the recent financial crisis, the small number of active mineworkers who provide the funding base for the pension plan, and the large number of ''orphans'' who receive their pensions under the plan. These ''orphans'' are retired mineworkers for whom a company no longer makes contributions to the pension fund, typically because the company is out of business.

So Congress and the Federal Government have to act in order to make sure that the pensions of our mineworkers

are protected. Dating back to President Harry Truman, the Federal Government has assumed a responsibility to our mineworkers. In 1992, I was extremely proud to work on the passage of the COAL Act, where we recommitted to our miners. That bill allowed the transfer of interest accruing to the unappropriated balance of the Abandoned Mine Reclamation Fund to be used to provide health care for a large number of orphaned miners and their widows. This Federal commitment was once again affirmed in the 2006 amendments to the Abandoned Mine Reclamation Program which sought to again protect the health care plans of miners from insolvency.

Now, 18 years after passing the COAL Act, Senator GOODWIN and I are again renewing our commitment to the nation's miners with the CARE Act. This bill will protect the solvency of our miners' pension plans.

In West Virginia, we revere our miners—the men and women who put their lives on the line every single day to provide for their families and bring light and heat to millions. Their tenacity, their courage and their determination is an inspiration to us all. The work they do everyday provides nearly half of our nation with power to light and heat our homes. We should all thank them for the service they provide this country, and continue protecting our miners' retirement benefits going forward.

By Mr. WYDEN (for himself, Mr. AKAKA, Mr. VOINOVICH, Ms. COLLINS, Ms. LANDRIEU, and Mr. LIEBERMAN):

S. 3650. A bill to amend chapter 21 of title 5, United States Code, to provide that fathers of certain permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligibles for treatment in the civil service; to the Committee on Homeland Security and Governmental Affairs.

Mr. WYDEN. Mr. President, the wars in Iraq and Afghanistan are taking a huge toll on our servicemembers and their families. To date, 123 Oregonians have died in those wars, leaving behind grieving friends and families. I'll never forget the pain I've heard in the voices of the Oregon parents I've spoken to after they've lost a son or daughter to war.

These parents are often called ''Gold Star parents'' because, by tradition, they display a Gold Star flag to let the world know of their sacrifice.

Our nation can't lift the burden of their grief. No one can.

However, our nation does commit to recognize the immense sacrifice of Gold Star parents by giving them certain benefits. One of those benefits is a 10-point hiring preference for unmarried Gold Star mothers when they apply for jobs with the federal government.

But I was surprised to learn that this preference cannot be given to Gold Star fathers. This inequity is a relic from the past; an example of the law has not kept up with the times. We can now see that all unmarried Gold Star mothers and fathers deserve to have the federal government recognize their sacrifice equally. That is why I am introducing a bill to update the law.

I learned of this disparity from my friend Steve Ellis of Baker City, Oregon. Steve lost his beloved daughter, Army Corporal Jessica Ann Ellis, when she was killed by a roadside bomb in Baghdad in 2008. Although Steve is a Gold Star father, he would still not be eligible for the benefit under my proposed change because he is married. But he didn't point out this inequity in the law for his own benefit. He did it for future Gold Star fathers. He saw an inequity in the law, and felt it was his duty to try and get it fixed for other Gold Star fathers.

So today I introduce the Jessica Ann Ellis Gold Star Fathers Act as a small legislative fix that will make a big change to federal veterans' preference laws through true equality.

This bill will give any unmarried Gold Star parent, regardless of gender, a 10-point hiring preference when they apply for federal jobs. It will also give the benefit to any unmarried parent of a totally and permanently disabled servicemember.

Gold Star mothers and fathers deserve equal recognition for the loss of a child who bravely made the ultimate sacrifice for his or her country. The Jessica Ann Ellis Gold Star Fathers Act will give them that.

This bill is supported by the American Gold Star Mothers organization, and is cosponsored by Senator AKAKA, Senator VOINOVICH, Senator COLLINS, Senator LANDRIEU and Senator LIEBERMAN. I hope it can be passed quickly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3650

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 ''Jessica Ann Ellis Gold Star Fathers Act of 2010''.

SEC. 2. PREFERENCE ELIGIBLE TREATMENT FOR FATHERS OF CERTAIN PERMANENTLY DISABLED OR DECEASED VETERANS.

Section 2108(3) of title 5, United States Code, is amended by striking subparagraphs (F) and (G) and inserting the following:

''(F) the parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

''(i) the spouse of that parent is totally and permanently disabled; or

''(ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse;

''(G) the parent of a service-connected permanently and totally disabled veteran, if—

''(i) the spouse of that parent is totally and permanently disabled; or

''(ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse; and''.

SEC. 3. EFFECTIVE DATE.

The amendment made by this Act shall take effect 90 days after the date of enactment of this Act.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4514. Mr. MCCONNELL submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table.

SA 4515. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4516. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4517. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4514. Mr. MCCONNELL submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

DIVISION B—OIL SPILL RESPONSE IMPROVEMENT

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Oil Spill Response Improvement Act of 2010''.

TITLE XXI—OUTER CONTINENTAL SHELF REFORM

SEC. 2101. PURPOSES.

The purposes of this title are—

(1) to rationalize and reform the responsibilities of the Secretary of the Interior with respect to the management of the outer Continental Shelf in order to improve the management, oversight, accountability, safety, and environmental protection of all the resources on the outer Continental Shelf;

(2) to provide independent development and enforcement of safety and environmental laws (including regulations) governing—

(A) energy development and mineral extraction activities on the outer Continental Shelf; and

(B) related offshore activities; and

(3) to ensure a fair return to the taxpayer from, and independent management of, royalty and revenue collection and disbursement activities from mineral and energy resources.

SEC. 2102. DEFINITIONS.

In this title:

(1) DEPARTMENT.—The term ''Department'' means the Department of the Interior.

(2) OUTER CONTINENTAL SHELF.—The term ''outer Continental Shelf'' has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 2103. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be managed in a manner that—

''(A) recognizes the need of the United States for competitive domestic sources of energy, food, minerals, and other resources;

''(B) minimizes the potential impacts of development of those resources on the marine and coastal environment and on human health and safety; and

''(C) acknowledges the long-term economic value to the United States of the balanced, expeditious, and orderly management and production of those resources that safeguards the environment and respects the multiple values and uses of the outer Continental Shelf;'';

(2) in paragraph (4)(C), by striking the period at the end and inserting a semicolon;

(3) in paragraph (5), by striking ''; and'' and inserting a semicolon;

(4) by redesignating paragraph (6) as paragraph (7);

(5) by inserting after paragraph (5) the following:

''(6) exploration, development, and production of energy and minerals on the outer Continental Shelf should be allowed only when those activities can be accomplished in a manner that provides reasonable assurance of adequate protection against harm to life, health, the environment, property, or other users of the waters, seabed, or subsoil; and'';

and

(6) in paragraph (7) (as so redesignated)—

(A) by striking ''should be'' and inserting ''shall be''; and

(B) by adding ''best available commercial'' after ''using''.

SEC. 2104. STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT.

(a) IN GENERAL.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding to the end the following:

''SEC. 32. STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT.

''(a) LEASING, PERMITTING, AND REGULATION BUREAUS.—

''(1) ESTABLISHMENT OF BUREAUS.—

''(A) IN GENERAL.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), the Secretary shall establish in the Department of the Interior not more than 2 bureaus to carry out the leasing, permitting, and safety and environmental regulatory functions vested in the Secretary by this Act and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) related to the outer Continental Shelf.

''(B) CONFLICTS OF INTEREST.—In establishing the bureaus under subparagraph (A), the Secretary shall ensure, to the maximum extent practicable, that any potential organizational conflicts of interest related to leasing, revenue creation, environmental protection, and safety are eliminated.

''(2) DIRECTOR.—Each bureau shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(3) COMPENSATION.—Each Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(4) QUALIFICATIONS.—Each Director shall be a person who, by reason of professional background and demonstrated ability and experience, is specially qualified to carry out the duties of the office.

''(b) ROYALTY AND REVENUE OFFICE.—

''(1) ESTABLISHMENT OF OFFICE.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), the Secretary shall establish in the Department of the Interior an office to carry out the royalty and revenue management functions vested in the Secretary by this Act and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

''(2) DIRECTOR.—The office established under paragraph (1) shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(3) COMPENSATION.—The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(4) QUALIFICATIONS.—The Director shall be a person who, by reason of professional background and demonstrated ability and experience, is specially qualified to carry out the duties of the office.

''(c) OCS SAFETY AND ENVIRONMENTAL ADVISORY BOARD.—

''(1) ESTABLISHMENT.—The Secretary shall establish, under the Federal Advisory Committee Act (5 U.S.C. App.), an Outer Continental Shelf Safety and Environmental Advisory Board (referred to in this subsection as the 'Board'), to provide the Secretary and the Directors of the bureaus established under this section with independent peer-reviewed scientific and technical advice on safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

''(2) MEMBERSHIP.—

''(A) SIZE.—

''(i) IN GENERAL.—The Board shall consist of not more than 12 members, chosen to reflect a range of expertise in scientific, engineering, management, and other disciplines related to safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

''(ii) CONSULTATION.—The Secretary shall consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for membership on the Board.

''(B) TERM.—The Secretary shall appoint Board members to staggered terms of not more than 4 years, and shall not appoint a member for more than 2 consecutive terms.

''(C) CHAIR.—The Secretary shall appoint the Chair for the Board.

''(3) MEETINGS.—The Board shall—

''(A) meet not less than 3 times per year; and

''(B) at least once per year, shall host a public forum to review and assess the overall safety and environmental performance of outer Continental Shelf energy and mineral resource activities.

''(4) REPORTS.—Reports of the Board shall—

''(A) be submitted to Congress; and

''(B) made available to the public in an electronically accessible form.

''(5) TRAVEL EXPENSES.—Members of the Board, other than full-time employees of the Federal Government, while attending a meeting of the Board or while otherwise serving at the request of the Secretary or the Director while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Federal Government serving without pay.

''(d) SPECIAL PERSONNEL AUTHORITIES.—

''(1) DIRECT HIRING AUTHORITY FOR CRITICAL PERSONNEL.—

''(A) IN GENERAL.—Notwithstanding sections 3104, 3304, and 3309 through 3318 of title 5, United States Code, the Secretary may, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, recruit and directly appoint highly qualified accountants, scientists, engineers, or critical technical personnel into the competitive service, as officers or employees of any of the organizational units established under this section.

''(B) REQUIREMENTS.—In exercising the authority granted under subparagraph (A), the Secretary shall ensure that any action taken by the Secretary—

''(i) is consistent with the merit principles of chapter 23 of title 5, United States Code; and

''(ii) complies with the public notice requirements of section 3327 of title 5, United States Code.

''(2) CRITICAL PAY AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding section 5377 of title 5, United States Code, and without regard to the provisions of that title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 of that title (relating to classification and pay rates), the Secretary may establish, fix the compensation of, and appoint individuals to critical positions needed to carry out the functions of any of the organizational units established under this section, if the Secretary certifies that—

''(i) the positions—

''(I) require expertise of an extremely high level in a scientific or technical field; and

''(II) any of the organizational units established in this section would not successfully accomplish an important mission without such an individual; and

''(ii) exercise of the authority is necessary to recruit an individual exceptionally well qualified for the position.

''(B) LIMITATIONS.—The authority granted under subparagraph (A) shall be subject to the following conditions:

''(i) The number of critical positions authorized by subparagraph (A) may not exceed 40 at any 1 time in either of the bureaus established under this section.

''(ii) The term of an appointment under subparagraph (A) may not exceed 4 years.

''(iii) An individual appointed under subparagraph (A) may not have been an employee of the Department of the Interior during the 2-year period prior to the date of appointment.

''(iv) Total annual compensation for any individual appointed under subparagraph (A) may not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3, United States Code.

''(v) An individual appointed under subparagraph (A) may not be considered to be an employee for purposes of subchapter II of chapter 75 of title 5, United States Code.

''(C) NOTIFICATION.—Each year, the Secretary shall submit to Congress a notification that lists each individual appointed under this paragraph.

''(3) REEMPLOYMENT OF CIVILIAN RETIREES.—

''(A) IN GENERAL.—Notwithstanding part 553 of title 5, Code of Federal Regulations (relating to reemployment of civilian retirees to meet exceptional employment needs), or successor regulations, the Secretary may approve the reemployment of an individual to a particular position without reduction or termination of annuity if the hiring of the individual is necessary to carry out a critical function of any of the organizational units established under this section for which suitably qualified candidates do not exist.

''(B) LIMITATIONS.—An annuitant hired with full salary and annuities under the authority granted by subparagraph (A)—

''(i) shall not be considered an employee for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code;

''(ii) may not elect to have retirement contributions withheld from the pay of the annuitant;

''(iii) may not use any employment under this paragraph as a basis for a supplemental or recomputed annuity; and

''(iv) may not participate in the Thrift Savings Plan under subchapter III of chapter 84 of title 5, United States Code.

''(C) LIMITATION ON TERM.—The term of employment of any individual hired under subparagraph (A) may not exceed an initial term of 2 years, with an additional 2-year appointment under exceptional circumstances.

''(e) CONTINUITY OF AUTHORITY.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), any reference in any law, rule, regulation, directive, or instruction, or certificate or other official document, in force immediately prior to the date of enactment of this section—

''(1) to the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to the appropriate bureaus and offices established under this section;

''(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to the Director of the bureau or office under this section to whom the Secretary has assigned the respective duty or authority; and

''(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to that same or equivalent position in the appropriate bureau or office established under this section.''.

(b) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by striking ''Director, Bureau of Mines, Department of the Interior'' and inserting the following:

''Bureau Directors, Department of the Interior (2).

''Director, Royalty and Revenue Office, Department of the Interior.''.

SEC. 2105. SAFETY, ENVIRONMENTAL, AND FINANCIAL REFORM OF THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) DEFINITIONS.—Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended by adding at the end the following:

''(r) SAFETY CASE.—The term 'safety case' means a complete set of safety documentation that provides a basis for determining whether a system is adequately safe for a given application in a given environment.''.

(b) ADMINISTRATION OF LEASING.—Section 5(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)) is amended in the second sentence—

(1) by striking ''The Secretary may at any time'' and inserting ''The Secretary shall''; and

(2) by inserting after ''provide for'' the following: ''operational safety, the protection of the marine and coastal environment,''.

(c) MAINTENANCE OF LEASES.—Section 6 of the Outer Continental Shelf Lands Act (43 U.S.C. 1335) is amended by adding at the end the following:

''(f) REVIEW OF BOND AND SURETY AMOUNTS.—Not later than May 1, 2011, and every 5 years thereafter, the Secretary shall—

''(1) review the minimum financial responsibility requirements for mineral leases under subsection (a)(11); and

''(2) adjust for inflation based on the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and recommend to Congress any further changes to existing financial responsibility requirements necessary to permit lessees to fulfill all obligations under this Act or the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

''(g) PERIODIC FISCAL REVIEWS AND REPORTS.—

''(1) ROYALTY RATES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary shall carry out a review of, and prepare a report that describes—

''(i) the royalty and rental rates included in new offshore oil and gas leases and the rationale for the rates;

''(ii) whether, in the view of the Secretary, the royalty and rental rates described in subparagraph (A) would yield a fair return to the public while promoting the production of oil and gas resources in a timely manner; and

''(iii) whether, based on the review, the Secretary intends to modify the royalty or rental rates.

''(B) PUBLIC PARTICIPATION.—In carrying out a review and preparing a report under subparagraph (A), the Secretary shall provide to the public an opportunity to participate.

''(2) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary in consultation with the Secretary of the Treasury, shall carry out a comprehensive review of all components of the Federal offshore oil and gas fiscal system, including requirements and trends for bonus bids, rental rates, royalties, oil and gas taxes, income taxes, wage requirements, regulatory compliance costs, oil and gas fees, and other significant financial elements.

''(B) INCLUSIONS.—The review shall include—

''(i) information and analyses comparing the offshore bonus bids, rents, royalties, taxes, and fees of the Federal Government to the offshore bonus bids, rents, royalties, taxes, and fees of other resource owners (including States and foreign countries); and

''(ii) an assessment of the overall offshore oil and gas fiscal system in the United States, as compared to foreign countries.

''(C) INDEPENDENT ADVISORY COMMITTEE.—In carrying out a review under this paragraph, the Secretary shall convene and seek the advice of an independent advisory committee comprised of oil and gas and fiscal experts from States, Indian tribes, academia, the energy industry, and appropriate nongovernmental organizations.

''(D) REPORT.—The Secretary shall prepare a report that contains—

''(i) the contents and results of the review carried out under this paragraph for the period covered by the report; and

''(ii) any recommendations of the Secretary and the Secretary of the Treasury based on the contents and results of the review.

''(E) COMBINED REPORT.—The Secretary may combine the reports required by paragraphs (1) and (2)(D) into 1 report.

''(3) REPORT DEADLINE.—Not later than 30 days after the date on which the Secretary completes each report under this subsection, the Secretary shall submit copies of the report to—

''(A) the Committee on Energy and Natural Resources of the Senate;

''(B) the Committee on Finance of the Senate;

''(C) the Committee on Natural Resources of the House of Representatives; and

''(D) the Committee on Ways and Means of the House of Representatives.''.

(d) LEASES, EASEMENTS, AND RIGHTS-OF-WAY.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking subsection (d) and inserting the following:

''(d) DISQUALIFICATION FROM BIDDING.—No bid for a lease may be submitted by any entity that the Secretary finds, after prior public notice and opportunity for a hearing—

''(1) is not meeting due diligence, safety, or environmental requirements, constituting significant infractions, on other leases; or

''(2)(A) is a responsible party for a vessel or a facility from which oil is discharged, for purposes of section 1002 of the Oil Pollution Act of 1990 (33 U.S.C. 2702); and

''(B) has failed to meet the obligations of the responsible party under that Act to provide compensation for covered removal costs and damages.''.

(e) EXPLORATION PLANS.—Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended—

(1) in subsection (c)—

(A) in the fourth sentence of paragraph (1), by striking ''within thirty days of its submission'' and inserting ''by the deadline described in paragraph (5)'';

(B) by striking paragraph (3) and inserting the following:

''(3) MINIMUM REQUIREMENTS.—

''(A) IN GENERAL.—An exploration plan submitted under this subsection shall include, in such degree of detail as the Secretary by regulation may require—

''(i) a complete description and schedule of the exploration activities to be undertaken;

''(ii) a description of the equipment to be used for the exploration activities, including—

''(I) a description of the drilling unit;

''(II) a statement of the design and condition of major safety-related pieces of equipment;

''(III) a description of any new technology to be used; and

''(IV) a statement demonstrating that the equipment to be used meets the best available commercial technology requirements under section 21(b);

''(iii) a map showing the location of each well to be drilled;

''(iv)(I) a scenario for the potential blowout of the well involving the highest expected volume of liquid hydrocarbons; and

''(II) a complete description of a response plan to control the blowout and manage the accompanying discharge of hydrocarbons, including—

''(aa) the technology and estimated timeline for regaining control of the well; and

''(bb) the strategy, organization, and resources to be used to avoid harm to the environment and human health from hydrocarbons; and

''(v) any other information determined to be relevant by the Secretary.

''(B) DEEPWATER WELLS.—

''(i) IN GENERAL.—Before conducting exploration activities in water depths greater than 500 feet, the holder of a lease shall submit to the Secretary for approval a deepwater operations plan prepared by the lessee in accordance with this subparagraph.

''(ii) TECHNOLOGY REQUIREMENTS.—A deepwater operations plan under this subparagraph shall be based on the best available commercial technology to ensure safety in carrying out the exploration activity and the blowout response plan.

''(iii) SYSTEMS ANALYSIS REQUIRED.—The Secretary shall not approve a deepwater operations plan under this subparagraph unless the plan includes a technical systems analysis of—

''(I) the safety of the proposed exploration activity;

''(II) the blowout prevention technology; and

''(III) the blowout and spill response plans.''; and

(C) by adding at the end the following:

''(5) DEADLINE FOR APPROVAL.—

''(A) IN GENERAL.—In the case of a lease issued under a sale held after March 17, 2010, the deadline for approval of an exploration plan referred to in the fourth sentence of paragraph (1) is—

''(i) the date that is 90 days after the date on which the plan or the modifications to the plan are submitted; or

''(ii) the date that is not later than an additional 180 days after the deadline described in clause (i), if the Secretary makes a finding that additional time is necessary to complete any environmental, safety, or other reviews.

''(B) EXISTING LEASES.—In the case of a lease issued under a sale held on or before March 17, 2010, the Secretary, with the consent of the holder of the lease, may extend the deadline applicable to the lease for such additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews.

''(C) EFFECT ON TERM OF LEASE.—In the case of any extension of the deadline for approval of an exploration plan under this Act, the additional time taken by the Secretary shall not be assessed against the term of the associated lease.'';

(2) by redesignating subsections (e) through (h) as subsections (f) through (i), respectively; and

(3) by striking subsection (d) and inserting the following:

''(d) DRILLING PERMITS.—

''(1) IN GENERAL.—The Secretary shall, by regulation, require that any lessee operating under an approved exploration plan obtain a permit—

''(A) before the lessee drills a well in accordance with the plan; and

''(B) before the lessee significantly modifies the well design originally approved by the Secretary.

''(2) ENGINEERING REVIEW REQUIRED.—The Secretary may not grant any drilling permit until the date of completion of a full review of the well system by not less than 2 agency engineers, including a written determination that—

''(A) critical safety systems (including blowout prevention) will use best available commercial technology; and

''(B) blowout prevention systems will include redundancy and remote triggering capability.

''(3) MODIFICATION REVIEW REQUIRED.—The Secretary may not approve any modification of a permit without a determination, after an additional engineering review, that the modification will not compromise the safety of the well system previously approved.

''(4) OPERATOR SAFETY AND ENVIRONMENTAL MANAGEMENT REQUIRED.—The Secretary may not grant any drilling permit or modification of the permit until the date of completion and approval of a safety and environmental management plan that—

''(A) is to be used by the operator during all well operations; and

''(B) includes—

''(i) a description of the expertise and experience requirements of crew members who will be present on the rig; and

''(ii) designation of at least 2 environmental and safety managers that—

''(I) are or will be employees of the operator;

''(II) would be present on the rig at all times; and

''(III) have overall responsibility for the safety and environmental management of the well system and spill response plan; and

''(C) not later than May 1, 2012, requires that all employees on the rig meet the training and experience requirements under section 21(b)(4).

''(e) DISAPPROVAL OF EXPLORATION PLAN.—

''(1) IN GENERAL.—The Secretary shall disapprove an exploration plan submitted under this section if the Secretary determines that, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that—

''(A) implementation of the exploration plan would probably cause serious harm or damage to life (including fish and other aquatic life), property, mineral deposits, national security or defense, or the marine, coastal or human environments;

''(B) the threat of harm or damage would not disappear or decrease to an acceptable extent within a reasonable period of time; and

''(C) the advantages of disapproving the exploration plan outweigh the advantages of exploration.

''(2) COMPENSATION.—If an exploration plan is disapproved under this subsection, the provisions of subparagraphs (B) and (C) of section 25(h)(2) shall apply to the lease and the plan or any modified plan, except that the reference in section 25(h)(2) to a development and production plan shall be considered to be a reference to an exploration plan.''.

(f) OUTER CONTINENTAL SHELF LEASING PROGRAM.—Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended—

(1) in subsection (a)—

(A) in the second sentence, by inserting after ''national energy needs'' the following: ''and the need for the protection of the marine and coastal environment and resources'';

(B) in paragraph (1), by striking ''considers'' and inserting ''gives equal consideration to''; and

(C) in paragraph (3), by striking '', to the maximum extent practicable,'';

(2) in subsection (b)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) provide technical review and oversight of the exploration plan and a systems review of the safety of the well design and other operational decisions;

''(6) conduct regular and thorough safety reviews and inspections, and;

''(7) enforce all applicable laws (including regulations).'';

(3) in the second sentence of subsection (d)(2), by inserting '', the head of an interested Federal agency,'' after ''Attorney General'';

(4) in the first sentence of subsection (g), by inserting before the period at the end the following: '', including existing inventories and mapping of marine resources previously undertaken by the Department of the Interior and the National Oceanic and Atmospheric Administration, information provided by the Department of Defense, and other available data regarding energy or mineral resource potential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses on the outer Continental Shelf''; and

(5) by adding at the end the following:

''(i) RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary shall carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the outer Continental Shelf and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally responsible manner.

''(2) INCLUSIONS.—Research and development activities carried out under paragraph (1) may include activities to provide accurate estimates of energy and mineral reserves and potential on the outer Continental Shelf and any activities that may assist in filling gaps in environmental data needed to develop each leasing program under this section.

''(3) LEASING ACTIVITIES.—Research and development activities carried out under paragraph (1) shall not be considered to be leasing or pre-leasing activities for purposes of this Act.''.

(g) ENVIRONMENTAL STUDIES.—Section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346) is amended—

(1) by redesignating subsections (a) through (f) as subsections (b) through (g), respectively;

(2) by inserting before subsection (b) (as so redesignated) the following:

''(a) COMPREHENSIVE AND INDEPENDENT STUDIES.—

''(1) IN GENERAL.—The Secretary shall develop and carry out programs for the collection, evaluation, assembly, analysis, and dissemination of environmental and other resource data that are relevant to carrying out the purposes of this Act.

''(2) SCOPE OF RESEARCH.—The programs under this subsection shall include—

''(A) the gathering of baseline data in areas before energy or mineral resource development activities occur;

''(B) ecosystem research and monitoring studies to support integrated resource management decisions; and

''(C) the improvement of scientific understanding of the fate, transport, and effects of discharges and spilled materials, including deep water hydrocarbon spills, in the marine environment.

''(3) USE OF DATA.—The Secretary shall ensure that information from the studies carried out under this section—

''(A) informs the management of energy and mineral resources on the outer Continental Shelf including any areas under consideration for oil and gas leasing; and

''(B) contributes to a broader coordination of energy and mineral resource development activities within the context of best available science.

''(4) INDEPENDENCE.—The Secretary shall create a program within the appropriate bureau established under section 32 that shall—

''(A) be programmatically separate and distinct from the leasing program;

''(B) carry out the environmental studies under this section;

''(C) conduct additional environmental studies relevant to the sound management of energy and mineral resources on the outer Continental Shelf;

''(D) provide for external scientific review of studies under this section, including through appropriate arrangements with the National Academy of Sciences; and

''(E) subject to the restrictions of subsections (g) and (h) of section 18, make available to the public studies conducted and data gathered under this section.''; and

(3) in the first sentence of subsection (b)(1) (as so redesignated), by inserting ''every 3 years'' after ''shall conduct''.

(h) SAFETY RESEARCH AND REGULATIONS.—Section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347) is amended—

(1) in the first sentence of subsection (a), by striking ''Upon the date of enactment of this section,'' and inserting ''Not later than May 1, 2011, and every 3 years thereafter,'';

(2) by striking subsection (b) and inserting the following:

''(b) BEST AVAILABLE TECHNOLOGIES AND PRACTICES.—

''(1) IN GENERAL.—In exercising respective responsibilities under this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, to the maximum extent practicable, on existing operations, the use of the best available and safest commercial technologies and practices, if the failure of equipment would have a significant effect on safety, health, or the environment.

''(2) IDENTIFICATION OF BEST AVAILABLE TECHNOLOGIES.—Not later than May 1, 2011, the Secretary shall identify and publish a list, to be updated and maintained to reflect technological advances, of best available commercial technologies for key areas of well design and operation, including blowout prevention and blowout and oil spill response.

''(3) SAFETY CASE.—Not later than May 1, 2011, the Secretary shall promulgate regulations requiring a safety case be submitted along with each new application for a permit to drill on the outer Continental Shelf.

''(4) EMPLOYEE TRAINING.—

''(A) IN GENERAL.—Not later than May 1, 2011, the Secretary shall promulgate regulations setting standards for training for all workers on offshore facilities (including mobile offshore drilling units) conducting energy and mineral resource exploration, development, and production operations on the outer Continental Shelf.

''(B) REQUIREMENTS.—The training standards under this paragraph shall require that employers of workers described in subparagraph (A)—

''(i) establish training programs approved by the Secretary; and

''(ii) demonstrate that employees involved in the offshore operations meet standards that demonstrate the aptitude of the employees in critical technical skills.

''(C) EXPERIENCE.—The training standards under this section shall require that any offshore worker with less than 5 years of applied experience in offshore facilities operations pass a certification requirement after receiving the appropriate training.

''(D) MONITORING TRAINING COURSES.—The Secretary shall ensure that Department employees responsible for inspecting offshore facilities monitor, observe, and report on training courses established under this paragraph, including attending a representative number of the training sessions, as determined by the Secretary.''; and

(3) by adding at the end the following:

''(g) TECHNOLOGY RESEARCH AND RISK ASSESSMENT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a program of research, development, and risk assessment to address technology and development issues associated with outer Continental Shelf energy and mineral resource activities, with the primary purpose of informing the role of research, development, and risk assessment relating to safety, environmental protection, and spill response.

''(2) SPECIFIC AREAS OF FOCUS.—The program under this subsection shall include research, development, and other activities related to—

''(A) risk assessment, using all available data from safety and compliance records both within the United States and internationally;

''(B) analysis of industry trends in technology, investment, and interest in frontier areas;

''(C) analysis of incidents investigated under section 22;

''(D) reviews of best available commercial technologies, including technologies associated with pipelines, blowout preventer mechanisms, casing, well design, and other associated infrastructure related to offshore energy development;

''(E) oil spill response and mitigation;

''(F) risks associated with human factors; and

''(G) renewable energy operations.

''(3) INFORMATION SHARING ACTIVITIES.—

''(A) DOMESTIC ACTIVITIES.—The Secretary shall carry out programs to facilitate the exchange and dissemination of scientific and technical information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

''(B) INTERNATIONAL COOPERATION.—The Secretary shall carry out programs to cooperate with international organizations and foreign governments to share information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

''(4) REPORTS.—The program under this subsection shall provide to the Secretary, each Bureau Director under section 32, and the public quarterly reports that address—

''(A) developments in each of the areas under paragraph (2); and

''(B)(i) any accidents that have occurred in the past quarter; and

''(ii) appropriate responses to the accidents.

''(5) INDEPENDENCE.—The Secretary shall create a program within the appropriate bureau established under section 32 that shall—

''(A) be programmatically separate and distinct from the leasing program;

''(B) carry out the studies, analyses, and other activities under this subsection;

''(C) provide for external scientific review of studies under this section, including through appropriate arrangements with the National Academy of Sciences; and

''(D) make available to the public studies conducted and data gathered under this section.

''(6) USE OF DATA.—The Secretary shall ensure that the information from the studies and research carried out under this section inform the development of safety practices and regulations as required by this Act and other applicable laws.''.

(i) ENFORCEMENT.—Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) in the first sentence, by inserting '', each loss of well control, blowout, activation of the shear rams, and other accident that presented a serious risk to human or environmental safety,'' after ''fire''; and

(ii) in the last sentence, by inserting ''as a condition of the lease'' before the period at the end;

(B) in the last sentence of paragraph (2), by inserting ''as a condition of lease'' before the period at the end;

(2) in subsection (e)—

(A) by striking ''(e) The'' and inserting the following:

''(e) REVIEW OF ALLEGED SAFETY VIOLATIONS.—

''(1) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(2) INVESTIGATION.—The Secretary shall investigate any allegation from any employee of the lessee or any subcontractor of the lessee made under paragraph (1).''; and

(3) by adding at the end of the section the following:

''(g) INDEPENDENT INVESTIGATION.—

''(1) IN GENERAL.—At the request of the Secretary, the National Transportation Safety Board may conduct an independent investigation of any accident, occurring in the outer Continental Shelf and involving activities under this Act, that does not otherwise fall within the definition of an accident or major marine casualty, as those terms are used in chapter 11 of title 49, United States Code.

''(2) TRANSPORTATION ACCIDENT.—For purposes of an investigation under this subsection, the accident that is the subject of the request by the Secretary shall be determined to be a transportation accident within the meaning of that term in chapter 11 of title 49, United States Code.

''(h) INFORMATION ON CAUSES AND CORRECTIVE ACTIONS.—

''(1) IN GENERAL.—For each incident investigated under this section, the Secretary shall promptly make available to all lessees and the public technical information about the causes and corrective actions taken.

''(2) PUBLIC DATABASE.—All data and reports related to an incident described in paragraph (1) shall be maintained in a database that is available to the public.

''(i) INSPECTION FEE.—

''(1) IN GENERAL.—To the extent necessary to fund the inspections described in this paragraph, the Secretary shall collect a nonrefundable inspection fee, which shall be deposited in the Ocean Energy Enforcement Fund established under paragraph (3), from the designated operator for facilities subject to inspection under subsection (c).

''(2) ESTABLISHMENT.—The Secretary shall establish, by rule, inspection fees—

''(A) at an aggregate level equal to the amount necessary to offset the annual expenses of inspections of outer Continental Shelf facilities (including mobile offshore drilling units) by the Department of the Interior; and

''(B) using a schedule that reflects the differences in complexity among the classes of facilities to be inspected.

''(3) OCEAN ENERGY ENFORCEMENT FUND.—There is established in the Treasury a fund, to be known as the 'Ocean Energy Enforcement Fund' (referred to in this subsection as the 'Fund'), into which shall be deposited amounts collected under paragraph (1) and which shall be available as provided under paragraph (4).

''(4) AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, all amounts collected by the Secretary under this section—

''(A) shall be credited as offsetting collections;

''(B) shall be available for expenditure only for purposes of carrying out inspections of outer Continental Shelf facilities (including mobile offshore drilling units) and the administration of the inspection program;

''(C) shall be available only to the extent provided for in advance in an appropriations Act; and

''(D) shall remain available until expended.

''(5) ANNUAL REPORTS.—

''(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2011, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report on the operation of the Fund during the fiscal year.

''(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

''(i) A statement of the amounts deposited into the Fund.

''(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

''(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

''(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.''.

(j) REMEDIES AND PENALTIES.—Section 24 of the Outer Continental Shelf Lands Act (43 U.S.C. 1350) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) CIVIL PENALTY.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (3), if any person fails to comply with this Act, any term of a lease or permit issued under this Act, or any regulation or order issued under this Act, the person shall be liable for a civil administrative penalty of not more than $75,000 for each day of continuance of each failure.

''(2) ADMINISTRATION.—The Secretary may assess, collect, and compromise any penalty under paragraph (1).

''(3) HEARING.—No penalty shall be assessed under this subsection until the person charged with a violation has been given the opportunity for a hearing.

''(4) ADJUSTMENT.—The penalty amount specified in this subsection shall increase each year to reflect any increases in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.'';

(2) in subsection (c)—

(A) in the first sentence, by striking ''$100,000'' and inserting ''$10,000,000''; and

(B) by adding at the end the following: ''The penalty amount specified in this subsection shall increase each year to reflect any increases in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.''; and

(3) in subsection (d), by inserting '', or with reckless disregard,'' after ''knowingly and willfully''.

(k) OIL AND GAS DEVELOPMENT AND PRODUCTION.—Section 25 of the Outer Continental Shelf Lands Act (43 U.S.C. 1351) is amended by striking '', other than the Gulf of Mexico,'' each place it appears in subsections (a)(1), (b), and (e)(1).

(l) CONFLICTS OF INTEREST.—Section 29 of the Outer Continental Shelf Lands Act (43 U.S.C. 1355) is amended to read as follows:

''SEC. 29. CONFLICTS OF INTEREST.

''(a) RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall—

''(1) within 2 years after his employment with the Department has ceased—

''(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

''(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

''(C) knowingly aid, advise, or assist in—

''(i) representing any other person (except the United States in any formal or informal appearance before; or

''(ii) making, with the intent to influence, any oral or written communication on behalf of any other person (except the United States) to,

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order lease, permit, rulemaking, inspection, enforcement action, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee;

''(2) within 1 year after his employment with the Department has ceased—

''(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

''(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

''(C) knowingly aid , advise, or assist in —

''(i) representing any other person (except the United States in any formal or informal appearance before, or

''(ii) making, with the intent to influence, any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, inspection, enforcement action, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest; or

''(3) accept employment or compensation, during the 1-year period beginning on the date on which employment with the Department has ceased, from any person (other than the United States) that has a direct and substantial interest—

''(A) that was pending under the official responsibility of the employee as an officer or employee of the Department during the 1-year period preceding the termination of the responsibility; or

''(B) in which the employee participated personally and substantially as an officer or employee.

''(b) PRIOR EMPLOYMENT RELATIONSHIPS.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall participate personally and substantially as a Federal officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, inspection, enforcement action, or other particular matter in which, to the knowledge of the officer or employee—

''(1) the officer or employee or the spouse, minor child, or general partner of the officer or employee has a financial interest;

''(2) any organization in which the officer or employee is serving as an officer, director, trustee, general partner, or employee has a financial interest;

''(3) any person or organization with whom the officer or employee is negotiating or has any arrangement concerning prospective employment has a financial interest; or

''(4) any person or organization in which the officer or employee has, within the preceding 1-year period, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee has a financial interest.

''(c) GIFTS FROM OUTSIDE SOURCES.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall, directly or indirectly, solicit or accept any gift in violation of subpart B of part 2635 of title V, Code of Federal Regulations (or successor regulations).

''(d) EXEMPTIONS.—The Secretary may, by rule, exempt from this section clerical and support personnel who do not conduct inspections, perform audits, or otherwise exercise regulatory or policy making authority under this Act.

''(e) PENALTIES.—

''(1) CRIMINAL PENALTIES.—Any person who violates paragraph (1) or (2) of subsection (a) or subsection (b) shall be punished in accordance with section 216 of title 18, United States Code.

''(2) CIVIL PENALTIES.—Any person who violates subsection (a)(3) or (c) shall be punished in accordance with subsection (b) of section 216 of title 18, United States Code.''.

SEC. 2106. STUDY ON THE EFFECT OF THE MORATORIA ON NEW DEEPWATER DRILLING IN THE GULF OF MEXICO ON EMPLOYMENT AND SMALL BUSINESSES.

(a) IN GENERAL.—The Secretary of Energy, acting through the Energy Information Administration, shall publish a monthly study evaluating the effect of the moratoria which followed from the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment, on employment and small businesses.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act and at the beginning of each month thereafter during the effective period of the moratoria described in subsection (a), the Secretary of Energy, acting through the Energy Information Administration, 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 regarding the results of the study conducted under subsection (a), including—

(1) a survey of the effect of the moratoria on deepwater drilling on employment in the industries directly involved in oil and natural gas exploration in the outer Continental Shelf;

(2) a survey of the effect of the moratoria on employment in the industries indirectly involved in oil and natural gas exploration in the outer Continental Shelf, including suppliers of supplies or services and customers of industries directly involved in oil and natural gas exploration;

(3) an estimate of the effect of the moratoria on the revenues of small business located near the Gulf of Mexico and, to the maximum extent practicable, throughout the United States; and

(4) any recommendations to mitigate possible negative effects on small business concerns resulting from the moratoria.

SEC. 2107. REFORM OF OTHER LAW.

Section 388(b) of the Energy Policy Act of 2005 (43 U.S.C. 1337 note; Public Law 109–58) is amended by adding at the end the following:

''(4) FEDERAL AGENCIES.—Any head of a Federal department or agency shall, on request of the Secretary, provide to the Secretary all data and information that the Secretary determines to be necessary for the purpose of including the data and information in the mapping initiative, except that no Federal department or agency shall be required to provide any data or information that is privileged or proprietary.''.

SEC. 2108. SAFER OIL AND GAS PRODUCTION.

(a) PROGRAM AUTHORITY.—Section 999A of the Energy Policy Act of 2005 (42 U.S.C. 16371) is amended—

(1) in subsection (a)—

(A) by striking ''ultra-deepwater'' and inserting ''deepwater''; and

(B) by inserting ''well control and accident prevention,'' after ''safe operations,'';

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) Deepwater architecture, well control and accident prevention, and deepwater technology, including drilling to deep formations in waters greater than 500 feet.''; and

(B) by striking paragraph (4) and inserting the following:

''(4) Safety technology research and development for drilling activities aimed at well control and accident prevention performed by the Office of Fossil Energy of the Department.''; and

(3) in subsection (d)—

(A) in the subsection heading, by striking ''NATIONAL ENERGY TECHNOLOGY LABORATORY'' and inserting ''OFFICE OF FOSSIL ENERGY OF THE DEPARTMENT''; and

(B) by striking ''National Energy Technology Laboratory'' and inserting ''Office of Fossil Energy of the Department''.

(b) DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.—Section 999B of the Energy Policy Act of 2005 (42 U.S.C. 16372) is amended—

(1) in the section heading, by striking ''**ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM**'' and inserting ''**SAFE OIL AND GAS PRODUCTION AND ACCIDENT PREVENTION**'';

(2) in subsection (a), by striking '', by increasing'' and all that follows through the period at the end and inserting ''and the safe and environmentally responsible exploration, development, and production of hydrocarbon resources.'';

(3) in subsection (c)(1)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following:

''(D) projects will be selected on a competitive, peer-reviewed basis.''; and

(4) in subsection (d)—

(A) in paragraph (6), by striking ''ultra-deepwater'' and inserting ''deepwater'';

(B) in paragraph (7)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking ''ULTRA-DEEPWATER'' and inserting ''DEEPWATER'';

(II) by striking ''development and'' and inserting ''research, development, and''; and

(III) by striking ''as well as'' and all that follows through the period at the end and inserting ''aimed at improving operational safety of drilling activities, including well integrity systems, well control, blowout prevention, the use of non-toxic materials, and integrated systems approach-based management for exploration and production in deepwater.'';

(ii) in subparagraph (B), by striking ''and environmental mitigation'' and inserting ''use of non-toxic materials, drilling safety, and environmental mitigation and accident prevention'';

(iii) in subparagraph (C), by inserting ''safety and accident prevention, well control and systems integrity,'' after ''including''; and

(iv) by adding at the end the following:

''(D) SAFETY AND ACCIDENT PREVENTION TECHNOLOGY RESEARCH AND DEVELOPMENT.—Awards from allocations under section 999H(d)(4) shall be expended on areas including—

''(i) development of improved cementing and casing technologies;

''(ii) best management practices for cementing, casing, and other well control activities and technologies;

''(iii) development of integrity and stewardship guidelines for—

''(I) well-plugging and abandonment;

''(II) development of wellbore sealant technologies; and

''(III) improvement and standardization of blowout prevention devices.''; and

(C) by adding at the end the following:

''(8) STUDY; REPORT.—

''(A) STUDY.—As soon as practicable after the date of enactment of this paragraph, the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to determine—

''(i) whether the benefits provided through each award under this subsection during calendar year 2011 have been maximized; and

''(ii) the new areas of research that could be carried out to meet the overall objectives of the program.

''(B) REPORT.—Not later than January 1, 2012, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under subparagraph (A).

''(C) OPTIONAL UPDATES.—The Secretary may update the report described in subparagraph (B) for the 5-year period beginning on the date described in that subparagraph and each 5-year period thereafter.'';

(5) in subsection (e)—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by inserting ''to the Secretary for review'' after ''submit''; and

(ii) in the first sentence of subparagraph (B), by striking ''Ultra-Deepwater'' and all that follows through ''and such Advisory Committees'' and inserting ''Program Advisory Committee established under section 999D(a), and the Advisory Committee''; and

(B) by adding at the end the following:

''(6) RESEARCH FINDINGS AND RECOMMENDATIONS FOR IMPLEMENTATION.—The Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register an annual report on the research findings of the program carried out under this section and any recommendations for implementation that the Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, determines to be necessary.'';

(6) in subsection (i)—

(A) in the subsection heading, by striking ''UNITED STATES GEOLOGICAL SURVEY'' and inserting ''DEPARTMENT OF THE INTERIOR''; and

(B) by striking '', through the United States Geological Survey,''; and

(7) in the first sentence of subsection (j), by striking ''National Energy Technology Laboratory'' and inserting ''Office of Fossil Energy of the Department''.

(c) ADDITIONAL REQUIREMENTS FOR AWARDS.—Section 999C(b) of the Energy Policy Act of 2005 (42 U.S.C. 16373(b)) is amended by striking ''an ultra-deepwater technology or an ultra-deepwater architecture'' and inserting ''a deepwater technology''.

(d) PROGRAM ADVISORY COMMITTEE.—Section 999D of the Energy Policy Act of 2005 (42 U.S.C. 16374) is amended to read as follows:

''SEC. 999D. PROGRAM ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—Not later than 270 days after the date of enactment of the Oil Spill Response Improvement Act of 2010, the Secretary shall establish an advisory committee to be known as the 'Program Advisory Committee' (referred to in this section as the 'Advisory Committee').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Advisory Committee shall be composed of members appointed by the Secretary, including—

''(A) individuals with extensive research experience or operational knowledge of hydrocarbon exploration and production;

''(B) individuals broadly representative of the affected interests in hydrocarbon production, including interests in environmental protection and safety operations;

''(C) representatives of Federal agencies, including the Environmental Protection Agency and the Department of the Interior;

''(D) State regulatory agency representatives; and

''(E) other individuals, as determined by the Secretary.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—The Advisory Committee shall not include individuals who are board members, officers, or employees of the program consortium.

''(B) CATEGORICAL REPRESENTATION.—In appointing members of the Advisory Committee, the Secretary shall ensure that no class of individuals described in any of subparagraphs (A), (B), (D), or (E) of paragraph (1) comprises more than ⅓ of the membership of the Advisory Committee.

''(c) SUBCOMMITTEES.—The Advisory Committee may establish subcommittees for separate research programs carried out under this subtitle.

''(d) DUTIES.—The Advisory Committee shall—

''(1) advise the Secretary on the development and implementation of programs under this subtitle; and

''(2) carry out section 999B(e)(2)(B).

''(e) COMPENSATION.—A member of the Advisory Committee shall serve without compensation but shall be entitled to receive travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

''(f) PROHIBITION.—The Advisory Committee shall not make recommendations on funding awards to particular consortia or other entities, or for specific projects.''.

(e) DEFINITIONS.—Section 999G of the Energy Policy Act of 2005 (42 U.S.C. 16377) is amended—

(1) in paragraph (1), by striking ''200 but less than 1,500 meters'' and inserting ''500 feet'';

(2) by striking paragraphs (8), (9), and (10);

(3) by redesignating paragraphs (2) through (7) and (11) as paragraphs (4) through (9) and (10), respectively;

(4) by inserting after paragraph (1) the following:

''(2) DEEPWATER ARCHITECTURE.—The term 'deepwater architecture' means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at deepwater depths.

''(3) DEEPWATER TECHNOLOGY.—The term 'deepwater technology' means a discrete technology that is specially suited to address 1 or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at deepwater depths.''; and

(5) in paragraph (10) (as redesignated by paragraph (3)), by striking ''in an economically inaccessible geological formation, including resources of small producers''.

(f) FUNDING.—Section 999H of the Energy Policy Act of 2005 (42 U.S.C. 16378) is amended—

(1) in the first sentence of subsection (a) by striking ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund'' and inserting ''Safe and Responsible Energy Production Research Fund'';

(2) in subsection (d)—

(A) in paragraph (1), by striking ''35 percent'' and inserting ''21.5 percent'';

(B) in paragraph (2), by striking ''32.5 percent'' and inserting ''21 percent'';

(C) in paragraph (4)—

(i) by striking ''25 percent'' and inserting ''30 percent'';

(ii) by striking ''complementary research'' and inserting ''safety technology research and development''; and

(iii) by striking ''contract management,'' and all that follows through the period at the end and inserting ''and contract management.''; and

(D) by adding at the end the following:

''(5) 20 percent shall be used for research activities required under sections 20 and 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346, 1347).''.

(3) in subsection (f), by striking ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund'' and inserting ''Safer Oil and Gas Production and Accident Prevention Research Fund''.

(g) CONFORMING AMENDMENT.—Subtitle J of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16371 et seq.) is amended in the subtitle heading by striking ''**Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources**'' and inserting ''**Safer Oil and Gas Production and Accident Prevention**''.

SEC. 2109. NATIONAL COMMISSION ON OUTER CONTINENTAL SHELF OIL SPILL PREVENTION.

(a) ESTABLISHMENT.—There is established in the Legislative branch the National Commission on Outer Continental Shelf Oil Spill Prevention (referred to in this section as the ''Commission'').

(b) PURPOSES.—The purposes of the Commission are—

(1) to examine and report on the facts and causes relating to the Deepwater Horizon explosion and oil spill of 2010;

(2) to ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the incident;

(3) to build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Committees on Energy and Natural Resources and Commerce, Science, and Transportation of the Senate;

(B) the Committee on Natural Resources and the Subcommittee on Oversight and Investigations of the House of Representatives; and

(C) other Executive branch, congressional, or independent commission investigations into the Deepwater Horizon incident of 2010, other fatal oil platform accidents and major spills, and major oil spills generally;

(4) to make a full and complete accounting of the circumstances surrounding the incident, and the extent of the preparedness of the United States for, and immediate response of the United States to, the incident; and

(5) to investigate and report to the President and Congress findings, conclusions, and recommendations for corrective measures that may be taken to prevent similar incidents.

(c) COMPOSITION OF COMMISSION.—

(1) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(A) 1 member shall be appointed by the President, who shall serve as Chairperson of the Commission;

(B) 1 member shall be appointed by the majority or minority (as the case may be) leader of the Senate from the Republican Party and the majority or minority (as the case may be) leader of the House of Representatives from the Republican Party, who shall serve as Vice Chairperson of the Commission;

(C) 2 members shall be appointed by the senior member of the leadership of the Senate from the Democratic Party;

(D) 2 members shall be appointed by the senior member of the leadership of the House of Representatives from the Republican Party;

(E) 2 members shall be appointed by the senior member of the leadership of the Senate from the Republican Party; and

(F) 2 members shall be appointed by the senior member of the leadership of the House of Representatives from the Democratic Party.

(2) QUALIFICATIONS; INITIAL MEETING.—

(A) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(B) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be a current officer or employee of the Federal Government or any State or local government.

(C) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience and expertise in such areas as—

(i) engineering;

(ii) environmental compliance;

(iii) health and safety law (particularly oil spill legislation);

(iv) oil spill insurance policies;

(v) public administration;

(vi) oil and gas exploration and production;

(vii) environmental cleanup; and

(viii) fisheries and wildlife management.

(D) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before September 15, 2010.

(E) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable after the date of enactment of this Act.

(3) QUORUM; VACANCIES.—

(A) IN GENERAL.—After the initial meeting of the Commission, the Commission shall meet upon the call of the Chairperson or a majority of the members of the Commission.

(B) QUORUM.—6 members of the Commission shall constitute a quorum.

(C) VACANCIES.—Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner in which the original appointment was made.

(d) FUNCTIONS OF COMMISSION.—

(1) IN GENERAL.—The functions of the Commission are—

(A) to conduct an investigation that—

(i) investigates relevant facts and circumstances relating to the Deepwater Horizon incident of April 20, 2010, and the associated oil spill thereafter, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(ii) may include relevant facts and circumstances relating to—

(I) permitting agencies;

(II) environmental and worker safety law enforcement agencies;

(III) national energy requirements;

(IV) deepwater and ultradeepwater oil and gas exploration and development;

(V) regulatory specifications, testing, and requirements for offshore oil and gas well explosion prevention;

(VI) regulatory specifications, testing, and requirements offshore oil and gas well casing and cementing regulation;

(VII) the role of congressional oversight and resource allocation; and

(VIII) other areas of the public and private sectors determined to be relevant to the Deepwater Horizon incident by the Commission;

(B) to identify, review, and evaluate the lessons learned from the Deepwater Horizon incident of April 20, 2010, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, and the private sector, relative to detecting, preventing, and responding to those incidents; and

(C) to submit to the President and Congress such reports as are required under this section containing such findings, conclusions, and recommendations as the Commission determines to be appropriate, including proposals for organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(2) RELATIONSHIP TO INQUIRY BY CONGRESSIONAL COMMITTEES.—In investigating facts and circumstances relating to energy policy, the Commission shall—

(A) first review the information compiled by, and any findings, conclusions, and recommendations of, the committees identified in subparagraphs (A) and (B) of subsection (b)(3); and

(B) after completion of that review, pursue any appropriate area of inquiry, if the Commission determines that—

(i) those committees have not investigated that area;

(ii) the investigation of that area by those committees has not been completed; or

(iii) new information not reviewed by the committees has become available with respect to that area.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this section—

(A) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials;
as the Commission or such subcommittee or member considers to be advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this paragraph only—

(I) by the agreement of the Chairperson and the Vice Chairperson; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), a subpoena issued under this paragraph—

(I) shall bear the signature of the Chairperson or any member designated by a majority of the Commission;

(II) and may be served by any person or class of persons designated by the Chairperson or by a member designated by a majority of the Commission for that purpose.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence.

(ii) JUDICIAL ACTION FOR NONCOMPLIANCE.—Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(iii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes (2 U.S.C. 192 through 194).

(3) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge the duties of the Commission under this section.

(4) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from any Executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this section.

(B) COOPERATION.—Each Federal department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson, the Chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(C) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall be received, handled, stored, and disseminated only by members of the Commission and the staff of the Commission in accordance with all applicable laws (including regulations and Executive orders).

(5) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the functions of the Commission.

(B) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in subparagraph (A), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as are determined to be advisable and authorized by law.

(6) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property, including travel, for the direct advancement of the functions of the Commission.

(7) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(f) PUBLIC MEETINGS AND HEARINGS.—

(1) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(A) hold public hearings and meetings, to the extent appropriate; and

(B) release public versions of the reports required under paragraphs (1) and (2) of subsection (j).

(2) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of proprietary or sensitive information provided to or developed for or by the Commission as required by any applicable law (including a regulation or Executive order).

(g) STAFF OF COMMISSION.—

(1) IN GENERAL.—

(A) APPOINTMENT AND COMPENSATION.—

(i) IN GENERAL.—The Chairperson, in consultation with the Vice Chairperson and in accordance with rules agreed upon by the Commission, may, without regard to the civil service laws (including regulations), appoint and fix the compensation of a staff director and such other personnel as are necessary to enable the Commission to carry out the functions of the Commission.

(ii) MAXIMUM RATE OF PAY.—No rate of pay fixed under this subparagraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) PERSONNEL AS FEDERAL EMPLOYEES.—

(i) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be considered to be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) MEMBERS OF COMMISSION.—Clause (i) shall not apply to members of the Commission.

(2) DETAILEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(h) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(i) SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—

(1) IN GENERAL.—Subject to paragraph (2), the appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances, to the maximum extent practicable, pursuant to existing procedures and requirements.

(2) PROPRIETARY INFORMATION.—No person shall be provided with access to proprietary information under this section without the appropriate security clearances.

(j) REPORTS OF COMMISSION; ADJOURNMENT.—

(1) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.

(2) FINAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.

(3) TEMPORARY ADJOURNMENT.—

(A) IN GENERAL.—The Commission, and all the authority provided under this section, shall adjourn and be suspended, respectively, on the date that is 60 days after the date on which the final report is submitted under paragraph (2).

(B) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in subparagraph (A) for the purpose of concluding activities of the Commission, including—

(i) providing testimony to committees of Congress concerning reports of the Commission; and

(ii) disseminating the final report submitted under paragraph (2).

(C) RECONVENING OF COMMISSION.—The Commission shall stand adjourned until such time as the President or the Secretary of Homeland Security declares an oil spill of national significance to have occurred, at which time—

(i) the Commission shall reconvene in accordance with subsection (c)(3); and

(ii) the authority of the Commission under this section shall be of full force and effect.

(k) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(A) $10,000,000 for the first fiscal year in which the Commission convenes; and

(B) $3,000,000 for each fiscal year thereafter in which the Commission convenes.

(2) AVAILABILITY.—Amounts made available to carry out this section shall be available—

(A) for transfer to the Commission for use in carrying out the functions and activities of the Commission under this section; and

(B) until the date on which the Commission adjourns for the fiscal year under subsection (j)(3).

(l) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(m) CONFLICTS OF INTEREST FOR CERTAIN COMMISSION MEMBERS.—Notwithstanding any other provision of law, any member of a federally sponsored presidential commission that is a senior official in an organization that is engaged in legal action that is materially relevant to the work of the Commission shall be excluded from making recommendations to the President.

SEC. 2110. CLASSIFICATION OF OFFSHORE SYSTEMS.

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall jointly issue regulations requiring systems (including existing systems) used in the offshore exploration, development, and production of oil and gas in the outer Continental Shelf to be constructed, maintained, and operated so as to meet classification, certification, rating, and inspection standards that are necessary—

(A) to protect the health and safety of affiliated workers; and

(B) to prevent environmental degradation.

(2) THIRD-PARTY VERIFICATION.—The standards established by regulation under paragraph (1) shall be verified through certification and classification by independent third parties that—

(A) have been preapproved by both the Secretary and the Secretary of the Department in which the Coast Guard is operating; and

(B) have no financial conflict of interest in conducting the duties of the third parties.

(3) MINIMUM SYSTEMS COVERED.—At a minimum, the regulations issued under paragraph (1) shall require the certification and classification by an independent third party who meets the requirements of paragraph (2) of—

(A) mobile offshore drilling units;

(B) fixed and floating drilling or production facilities;

(C) drilling systems, including risers and blowout preventers; and

(D) any other equipment dedicated to the safety systems relating to offshore extraction and production of oil and gas.

(4) EXCEPTIONS.—The Secretary and the Secretary of the Department in which the Coast Guard is operating may waive the standards established by regulation under paragraph (1) for an existing system only if—

(A) the system is of an age or type where meeting such requirements is impractical; and

(B) the system poses an acceptably low level of risk to the environment and to human safety.

(b) AUTHORITY OF COAST GUARD.—Nothing in this section preempts or interferes with the authority of the Coast Guard.

SEC. 2111. SAVINGS PROVISIONS.

(a) EXISTING LAW.—All regulations, rules, standards, determinations, contracts and agreements, memoranda of understanding, certifications, authorizations, appointments, delegations, results and findings of investigations, or any other actions issued, made, or taken by, or pursuant to or under, the authority of any law (including regulations) that resulted in the assignment of functions or activities to the Secretary, the Director of the Minerals Management Service (including by delegation from the Secretary), or the Department (as related to the implementation of the purposes referenced in this title) that were in effect on the date of enactment of this Act shall continue in full force and effect after the date of enactment of this Act unless previously scheduled to expire or until otherwise modified or rescinded by this title or any other Act.

(b) EFFECT ON OTHER AUTHORITIES.—This title does not amend or alter the provisions of other applicable laws, unless otherwise noted.

SEC. 2112. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE XXII—OIL SPILL COMPENSATION

Subtitle A—Oil Spill Liability

PART I—OIL POLLUTION ACT OF 1990

SEC. 2201. LIABILITY LIMITS.

(a) PRESIDENTIAL ESTABLISHMENT OF LIMITS.—Section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) is amended by adding at the end the following:

''(e) LIMITS FOR STRICT LIABILITY.—

''(1) IN GENERAL.—For the purpose of subsection (a)(3), after a 60-day period of public notice and comment beginning on the date of enactment of this subsection, and from time to time thereafter, the President shall establish a set of limits for strict liability for damages for incidents occurring from offshore facilities (other than deepwater ports) covered by Outer Continental Shelf leases issued after the date of enactment of the Oil Spill Response Improvement Act of 2010.

''(2) REQUIREMENTS.—The limits for strict liability established under paragraph (1) shall—

''(A) take into account the availability of insurance products for offshore facilities; and

''(B) be otherwise based equally on and categorized by—

''(i) the water depth of the lease;

''(ii) the minimum projected well depth of the lease;

''(iii) the proximity of the lease to oil and gas emergency response equipment and infrastructure;

''(iv) the likelihood of the offshore facility covered by the lease to encounter broken sea ice;

''(v) the record and historical number of regulatory violations of the leaseholder under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (or the absence of such a record or violations);

''(vi) the estimated hydrocarbon reserves of the lease;

''(vii) the estimated well pressure, expressed in pounds per square inch, of the reservoir associated with the lease;

''(viii) the availability and projected availability, including through borrowing authority, of funds in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986;

''(ix) other available remedies under law;

''(x) the estimated economic value of nonenergy coastal resources that may be impacted by a spill of national significance involving the offshore facility covered by the lease;

''(xi) whether the offshore facility covered by the lease employs a subsea or surface blowout preventer stack; and

''(xii) the availability of industry payments under subsection (f).

''(3) PUBLIC LIABILITY INSURANCE.—In no case shall the strict liability limits under this subsection for the applicable offshore facility be less than the maximum amount of public liability insurance that is broadly available for related offshore environmental incidents.

''(f) LIABILITY OF INDUSTRY.—

''(1) IN GENERAL.—If an incident on the Outer Continental Shelf results in economic damages claims exceeding the maximum amount for strict liability for economic damages to be paid by the responsible party under subsection (a)(3), the claims in excess of the maximum amount for strict liability for economic damages under subsection (a)(3) shall be paid initially, in an amount not to exceed a total of $20,000,000,000, by all other entities operating offshore facilities on the Outer Continental Shelf on the date of the incident, as determined by the Secretary of the Interior, in accordance with paragraph (2).

''(2) PROPORTIONAL PAYMENT.—The amount of liability claims to be paid under paragraph (1) by an entity described in that paragraph shall be determined by the Secretary of the Interior based on the proportion that—

''(A) the number of offshore facilities operated by the entity on the Outer Continental Shelf; bears to

''(B) the total number of offshore facilities operated by all entities on the Outer Continental Shelf.

''(3) OIL SPILL LIABILITY TRUST FUND.—Economic damages that exceed the amounts available under subsection (a)(3) and paragraph (1) shall be paid from the Oil Spill Liability Trust Fund and amounts made available to the Fund under part II of the Oil Spill Response Improvement Act of 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) LIMIT FOR OFFSHORE FACILITIES.—Section 1004(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)) is amended—

(A) in paragraph (2), by striking ''.,'' and inserting a comma; and

(B) by striking paragraph (3) and inserting the following:

''(3) for an offshore facility (except a deepwater port) covered by an Outer Continental Shelf lease—

''(A) if the lease was issued prior to the date of enactment of the Oil Spill Response Improvement Act of 2010, the total of all removal costs plus $75,000,000; and

''(B) if the lease was issued on or after the date of enactment of the Oil Spill Response Improvement Act of 2010, the total of all removal costs plus the limit for strict liability for damages for that offshore facility established by the President under subsection (e); and''.

(2) EXCEPTIONS.—Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended in the first sentence by inserting ''1004(f),'' after ''sections''.

SEC. 2202. ADVANCE PAYMENT.

Section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712) is amended by adding at the end the following:

''(l) ADVANCE PAYMENTS.—The President shall promulgate regulations that allow advance payments to be made from the Fund to States and political subdivisions of States for actions taken to prepare for and mitigate substantial threats from the discharge of oil.''.

PART II—OIL SPILL LIABILITY TRUST FUND

SEC. 2211. RATE OF TAX FOR OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Section 4611 of the Internal Revenue Code of 1986 (relating to the imposition of tax) is amended—

(1) in subsection (c), by adding at the end the following new paragraph:

''(3) ADJUSTMENTS TO TEMPORARY SUSPENSION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—In the case of any calendar quarter in which the Secretary estimates that, as of the close of the previous quarter, the unobligated balance in the Oil Spill Liability Trust Fund is greater than $10,000,000,000, the Oil Spill Liability Trust Fund financing shall be 0 cents a barrel.''; and

(2) by striking subsection (f).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the first day of the first calendar quarter after the date of enactment of this Act.

(c) NEW REVENUES TO THE OIL SPILL LIABILITY TRUST FUND.—Notwithstanding section 3302 of title 31, United States Code, the revenue resulting from any increase in the Oil Spill Liability Trust Fund financing rate under this section or the amendments made by this section shall—

(1) be credited only as offsetting collections for the Oil Spill Liability Trust Fund;

(2) be available for expenditure only for purposes of the Oil Spill Liability Trust Fund; and

(3) remain available until expended.

SEC. 2212. LIMITATIONS ON EXPENDITURES AND BORROWING AUTHORITY.

(a) LIMITATIONS ON EXPENDITURES.—Section 9509(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Oil Spill Liability Trust Fund) is amended—

(1) by striking paragraph (2);

(2) by striking ''EXPENDITURES'' in the subsection heading and all that follows through ''Amounts in'' in paragraph (1) and inserting ''EXPENDITURES.—Amounts in''; and

(3) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively, and indenting appropriately.

(b) AUTHORITY TO BORROW.—Section 9509(d) of the Internal Revenue Code of 1986 (relating to authority to borrow from the Oil Spill Liability Trust Fund) is amended—

(1) in paragraph (2), by striking ''$1,000,000,000'' and inserting ''$10,000,000,000''; and

(2) in paragraph (3)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

Subtitle B—Federal Oil Spill Research

SEC. 2221. DEFINITIONS.

In this subtitle:

(1) COMMANDANT.—The term ''Commandant'' means the Commandant of the Coast Guard.

(2) PROGRAM.—The term ''program'' means the program for oil spill response established pursuant to section 2230.

SEC. 2222. FEDERAL OIL SPILL RESEARCH.

(a) IN GENERAL.—Title VII of the Oil Pollution Act of 1990 is amended—

(1) by inserting before section 7001 (33 U.S.C. 2761) the following:

''SEC. 7000. DEFINITIONS.

''In this title:

''(1) ASSESSMENT.—The term 'assessment' means the research assessment on the status of the oil spill prevention and response capabilities conducted under section 7004.

''(2) COMMITTEE.—The term 'Committee' means the Interagency Committee established under section 7001.

''(3) PLAN.—The term 'plan' means the Federal oil spill research plan developed under section 7005.

''(4) PROGRAM.—The term 'program' means the Federal oil spill research program established under section 7003.'';

(2) by redesignating section 7002 (33 U.S.C. 2762) as section 7009;

(3) in section 7001 (33 U.S.C. 2761), by striking subsections (b) through (e) and inserting the following:

''(b) REGIONAL SUBCOMMITTEES.—

''(1) IN GENERAL.—The Committee shall establish—

''(A) a regional subcommittee for each of the Gulf of Mexico and Arctic regions of the United States; and

''(B) such other regional subcommittees as the Committee determines to be necessary.

''(2) COORDINATION.—In accordance with the program, each regional subcommittee established under this subsection shall coordinate with the Committee and other relevant State, national, and international bodies with expertise in the region to research and develop technologies for use in the prevention, detection, recovery, mitigation, and evaluation of effects of incidents in the regional environment.''; and

(4) by inserting after section 7001 (33 U.S.C. 2761) the following:

''SEC. 7002. FUNCTIONS OF THE COMMITTEE.

''The Committee shall—

''(1) coordinate a comprehensive Federal oil spill research and development program in accordance with section 7003 to coordinate oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, institutions of higher education, research institutions, State and tribal governments, and other relevant stakeholders;

''(2) conduct a research assessment on the status of the oil spill prevention and response capabilities in accordance with section 7004; and

''(3) develop a Federal oil spill research plan in accordance with section 7005.

''SEC. 7003. FEDERAL OIL SPILL RESEARCH PROGRAM.

''(a) IN GENERAL.—The Committee shall establish a program for conducting oil pollution research, development, and demonstration.

''(b) PROGRAM ELEMENTS.—The program established under subsection (a) shall provide for research, development, and demonstration technologies, practices, and procedures that provide for effective and direct response to prevent, detect, recover, or mitigate oil discharges, including—

''(1) new technologies to detect accidental or intentional overboard oil discharges;

''(2) models and monitoring capabilities to predict the transport and fate of oil, including trajectory and behavior predictions due to location, weather patterns, hydrographic data, and water conditions, including Arctic sea ice environments;

''(3) containment and well-control capabilities, including drilling of relief wells, containment structures, and injection technologies;

''(4) response capabilities, such as improved dispersants, biological treatment methods, booms, oil skimmers, containment vessels, and offshore and onshore storage capacity;

''(5) research and training, in coordination with the National Response Team, to improve the removal of oil discharge quickly and effectively;

''(6) decision support systems for contingency planning and response;

''(7) improvement of options for oily or oiled waste dispersal;

''(8) technologies, methods, and standards for use in protecting personnel and for volunteers that may participate in incident responses, including—

''(A) training;

''(B) adequate supervision;

''(C) protective equipment;

''(D) maximum exposure limits; and

''(E) decontamination procedures; and

''(9) technologies and methods to prevent, detect, recover, and mitigate oil discharges in polar environments.

''(c) STUDY OF ENVIRONMENTAL EFFECTS OF RESPONSE TECHNIQUES.—Notwithstanding any other provision of law, the Coast Guard shall conduct reasonable environmental studies of oil discharge prevention or mitigation technologies, including the use of small quantities of oil for testing of in situ burning, chemical dispersants, and herding agents, upon and within navigable waters of the United States, if the Coast Guard, in consultation with the Committee, determines that the information to be obtained cannot be adequately obtained through a laboratory or simulated experiment.

''SEC. 7004. FEDERAL RESEARCH ASSESSMENT.

''Not later than 1 year after the date of enactment of Oil Spill Response Improvement Act of 2010, the Committee shall submit to Congress an assessment of the status of oil spill prevention and response capabilities that—

''(1) identifies research programs conducted and technologies developed by governments, institutions of higher education, and industry;

''(2) assesses the status of knowledge on oil pollution prevention, response, and mitigation technologies;

''(3) identifies regional oil pollution research needs and priorities for a coordinated program of research at the regional level developed in consultation with State, local, and tribal governments;

''(4) assesses the status of spill response equipment and determines areas in need of improvement, including quantity, age, quality, effectiveness, or necessary technological improvements;

''(5) assesses the status of real-time data available to mariners, researchers, and responders, including weather, hydrographic, and water condition data, and the impact of incomplete and inaccessible data on preventing, detecting, or mitigating oil discharges; and

''(6) is subject to a 90-day public comment period and addresses suggestions received and incorporates public input received, as appropriate.

''SEC. 7005. FEDERAL INTERAGENCY RESEARCH PLAN.

''(a) IN GENERAL.—

''(1) PLAN.—Not later than 60 days after the date on which the President submits to Congress, pursuant to section 1105 of title 31, United States Code, a budget for fiscal year 2012, and for each fiscal year thereafter, the Committee shall submit to Congress a plan that establishes the priorities for Federal oil spill research and development.

''(2) RECOMMENDATIONS.—In the development of the plan, the Committee shall consider recommendations by the National Academy of Sciences and information from State, local, and tribal governments.

''(b) PLAN REQUIREMENTS.—The plan shall—

''(1) make recommendations to improve technologies and practices to prevent oil spills;

''(2) suggest changes to the program to improve the rates of oil recovery and spill mitigation;

''(3) make recommendations to improve technologies, practices, and procedures to provide for effective and direct response to oil spills;

''(4) make recommendations to improve the quality of real-time data available to mariners, researchers, and responders; and

''(5) be subject to a 90-day public comment period and address suggestions received and incorporate public input received, as appropriate.

"SEC. 7006. EXTRAMURAL GRANTS.

''(a) IN GENERAL.—In carrying out the program, the Committee shall—

''(1) award competitive grants to institutions of higher education or other research institutions to carry out projects—

''(A) to advance research and development; and

''(B) to demonstrate technologies for preventing, detecting, or mitigating oil discharges that are relevant to the goals and priorities of the plan; and

''(2) incorporate a competitive, merit-based process for awarding grants that may be conducted jointly with other participating agencies.

''(b) REGIONAL RESEARCH PROGRAM.—

''(1) DEFINITION OF REGION.—In this subsection, the term 'region' means a Coast Guard district as described in part 3 of subchapter A of chapter I of title 33, Code of Federal Regulations (1989).

''(2) PROGRAM.—Consistent with the program, the Committee shall coordinate the provision of competitive grants to institutions of higher education or other research institutions (or groups of those institutions) for the purpose of conducting a coordinated research program relating to the aspects of oil pollution with respect to each region, including research on such matters as—

''(A) prevention;

''(B) removal mitigation; and

''(C) the effects of discharged oil on regional environments.

''(3) PUBLICATION.—

''(A) IN GENERAL.—The Committee shall coordinate the publication by the agencies represented on the Committee of a solicitation for grants under this subsection.

''(B) FORM AND CONTENT.—The application for a grant under this subsection shall be in such form and contain such information as shall be required in the published solicitation.

''(C) REVIEW OF APPLICATIONS.—Each application for a grant under this subsection shall be—

''(i) reviewed by the Committee; and

''(ii) at the option of the Committee, included among applications recommended by the Committee for approval in accordance with paragraph (5).

''(D) PROVISION OF GRANTS.—

''(i) IN GENERAL.—A granting agency represented on the Committee shall provide the grants recommended by the Committee unless the granting agency—

''(I) decides not to provide the grant due to budgetary or other compelling considerations; and

''(II) publishes in the Federal Register the reasons for such a determination.

''(ii) FUNDS FOR GRANTS.—No grants may be provided by any agency under this subsection from any funds authorized to carry out this paragraph unless the grant award has first been recommended by the Committee under subparagraph (C)(ii).

''(4) ELIGIBLE APPLICANTS.—

''(A) IN GENERAL.—Any institution of higher education or other research institution (or a group of those institutions) may apply for a grant for the regional research program established under this subsection.

''(B) LOCATION OF APPLICANT.—An applicant described in subparagraph (A) shall be located in the region, or in a State a part of which is in the region, for which the project covered by the grant application is proposed to be carried out as part of the regional research program.

''(C) GROUP APPLICATIONS.—With respect to an application described in subparagraph (A) from a group of institutions referred to in that subparagraph, the 1 or more entities that will carry out the substantial portion of the proposed project covered by the grant shall be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program.

''(5) RECOMMENDATIONS.—

''(A) IN GENERAL.—The Committee shall make recommendations on grants in such a manner as to ensure an appropriate balance within a region among the various aspects of oil pollution research, including—

''(i) prevention;

''(ii) removal;

''(iii) mitigation; and

''(iv) the effects of discharged oil on regional environments.

''(B) ADDITIONAL CRITERIA.—In addition to the requirements described in subparagraph (A), the Committee shall make recommendations for the approval of grants based on whether—

''(i) there are available to the applicant for use in carrying out this paragraph demonstrated research resources;

''(ii) the applicant demonstrates the capability of making a significant contribution to regional research needs; and

''(iii) the projects that the applicant proposes to carry out under the grant—

''(I) are consistent with the plan under section 7005; and

''(II) would further the objectives of the program established under section 7003.

''(6) TERM OF GRANTS; REVIEW; COST-SHARING.—A grant provided under this subsection shall—

''(A) be for a period of up to 3 years;

''(B) be subject to annual review by the granting agency; and

''(C) provide not more than 80 percent of the costs of the research activities carried out in connection with the grant.

''(7) PROHIBITION ON USE OF GRANT FUNDS.—No funds made available to carry out this subsection may be used for—

''(A) the acquisition of real property (including buildings); or

''(B) the construction of any building.

''(8) EFFECT ON OTHER AUTHORITY.—Nothing in this paragraph alters or abridges the authority under existing law of any Federal agency to provide grants, or enter into contracts or cooperative agreements, using funds other than those authorized in this Act for the purpose of carrying out this subsection.

''(9) FUNDING.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for each of fiscal years 2011 through 2015, not less than $32,000,000 of amounts in the Fund shall be available to carry out the regional research program under this subsection, to be available in equal amounts for the regional research program in each region.

''(B) ADDITIONAL GRANTS.—If the agencies represented on the Committee determine that regional research needs exist that cannot be addressed by the amount of funds made available under subparagraph (A), the agencies may use authority under subsection (a) to make additional grants to meet those needs.

"SEC. 7007. ANNUAL REPORT.

''Concurrent with the submission of the Federal interagency research plan pursuant to section 7005, the Committee shall submit to Congress an annual report that describes the activities and results of the program during the previous fiscal year and described the objectives of the program for the next fiscal year.

"SEC. 7008. FUNDING.

''(a) IN GENERAL.—Of the amounts in the Fund for each fiscal year, not more than $50,000,000 shall be available to carry out this section (other than section 7006(b)) for the fiscal year.

''(b) APPROPRIATIONS.—All activities authorized under this title, including under section 7006(b), shall be subject to the availability of appropriations.''.

SEC. 2223. NATIONAL ACADEMY OF SCIENCE PARTICIPATION.

The Commandant shall enter into an arrangement with the National Academy of Sciences under which the Academy shall—

(1) not later than 1 year after the date of enactment of this Act, assess and evaluate the status of Federal oil spill research and development as of the day before the date of enactment of this Act;

(2) submit to Congress and the Federal Oil Spill Research Committee established under section 7002 of the Oil Pollution Act of 1990 a report evaluating the conclusions and recommendations from the Federal research assessment under section 7004 of that Act to be used in the development of the Federal oil spill research plan under section 7005 of that Act; and

(3) not later than 1 year after the Federal interagency research plan is submitted to Congress under section 7005 of that Act, evaluate, and report to Congress on, the plan.

SEC. 2224. TECHNICAL AND CONFORMING AMENDMENTS.

(a) USE OF FUNDS.—Section 1012(a)(5)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)(A)) is amended by striking ''$25,000,000'' and inserting ''$50,000,000''.

(b) TABLE OF CONTENTS.—The table of contents in section 2 of the Oil Pollution Act of 1990 (33 U.S.C. prec. 2701) is amended by striking the items relating to sections 7001 and 7002 and inserting the following:

''Sec. 7000. Definitions.
''Sec. 7001. Oil pollution research and development program.
''Sec. 7002. Functions of the Committee.
''Sec. 7003. Federal oil spill research program.
''Sec. 7004. Federal research assessment.
''Sec. 7005. Federal interagency research plan.
''Sec. 7006. Extramural grants.
''Sec. 7007. Annual report.
''Sec. 7008. Funding.
''Sec. 7009. Submerged oil program.''.

SEC. 2225. OIL SPILL RESPONSE AUTHORITY.

Notwithstanding any other provision of law, the Incident Commander of the Coast Guard may authorize the use of dispersants in response to a spill of oil from—

(1) any facility or vessel located in, on, or under any of the navigable waters of the United States; and

(2) any facility of any kind that is subject to the jurisdiction of the United States and that is located in, on, or under any other waters.

SEC. 2226. MARITIME CENTER OF EXPERTISE.

(a) IN GENERAL.—The Commandant shall establish a Maritime Center of Expertise for Maritime Oil Spill and Hazardous Substance Release Response.

(b) DUTIES.—The Center shall—

(1) serve as the primary Federal facility for Coast Guard personnel to obtain qualifications to perform the duties of a regional response team cochair, a Federal on-scene coordinator, or a Federal on-scene coordinator representative;

(2) train Federal, State, and local first responders in the incident command system structure, maritime oil spill and hazardous substance release response techniques and strategies, and public affairs;

(3) work with academic and private sector response training centers to develop and standardize maritime oil spill and hazardous substance release response training and techniques;

(4) conduct research, development, testing, and demonstration for maritime oil spill and

hazardous substance release response equipment, technologies, and techniques to prevent or mitigate maritime oil discharges and hazardous substance releases;

(5) maintain not less than 2 incident management and assistance teams, 1 of which shall be ready to deploy anywhere in the continental United States within 24 hours after an incident or event;

(6) conduct marine environmental response standardization visits with Coast Guard Federal on-scene coordinators;

(7) administer and coordinate Coast Guard participation in the National Preparedness for Response Exercise Program; and

(8) establish and maintain Coast Guard marine environmental response doctrine.

SEC. 2227. NATIONAL STRIKE FORCE.

(a) IN GENERAL.—The Commandant shall maintain a National Strike Force to facilitate preparedness for and response to maritime oil spill and hazardous substance release incidents.

(b) COMPOSITION.—The National Strike Force—

(1) shall consist of—

(A) a National Strike Force Coordination Center;

(B) strike force teams, including—

(i) 1 team for the Atlantic Ocean;

(ii) 1 team for the Pacific Ocean; and

(iii) 1 team for the Gulf of Mexico; and

(C) a public information assist team; and

(2) may include, on the direction of the Commandant, 1 or more teams for the northwest Pacific Ocean and the Arctic Ocean.

(c) NATIONAL STRIKE FORCE COORDINATION CENTER DUTIES.—The National Strike Force Coordination Center shall—

(1) provide support and standardization guidance to the regional strike teams;

(2) maintain a response resource inventory of maritime oil spill and hazardous substance release response, marine salvage, and marine firefighting equipment maintained by certified oil spill response organizations as well as equipment listed in a vessel or facility oil spill response plan, as required by section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j));

(3) oversee the maintenance and adequacy of Coast Guard environmental response equipment;

(4) certify and inspect maritime oil spill response organizations; and

(5) maintain the National Area Contingency Plan library.

(d) STRIKE FORCE TEAM DUTIES.—The Strike Force Response Teams shall—

(1) provide rapid response support in incident management, site safety, contractor performance monitoring, resource documentation, response strategies, hazard assessment, oil spill dispersant, in situ burn and other technologies, prefabrication of containment technology, operational effectiveness monitoring, and high-capacity lightering and offshore skimming capabilities;

(2) train Coast Guard units in environmental pollution response and incident command systems, test and evaluate pollution response equipment, and operate as liaisons with response agencies within the areas of responsibility of the respective units;

(3) maintain sufficient maritime oil spill and hazardous substance release assets to ensure the protection of human health and the environment in the event of an oil spill or hazardous substance release, including the prefabrication of oil spill containment equipment; and

(4) maintain the capability to mobilize personnel and equipment to respond to an oil spill or hazardous substance release anywhere in the continental United States within 24 hours of such an event.

(e) PUBLIC INFORMATION ASSIST TEAM DUTIES.—The Public Information Assist Team shall maintain the capability—

(1) to provide crisis communication during oil spills, hazardous material releases, marine accidents, and other disasters, including staffing and managing public affairs and intergovernmental communication;

(2) provide public information and communications training to Federal, State, and local agencies and industry personnel; and

(3) maintain the capability to mobilize personnel and equipment to respond to an oil spill or hazardous substance release anywhere in the continental United States within 24 hours after such an event.

SEC. 2228. DISTRICT PREPAREDNESS AND RESPONSE TEAMS.

The Commandant shall maintain district preparedness response teams—

(1) to maintain Coast Guard environmental response equipment;

(2) to administer area contingency plans;

(3) to administer the National Preparedness for Response Exercise Program;

(4) to conduct responder incident command system training and health and safety training;

(5) to provide Federal on-scene coordinator technical advice;

(6) to coordinate district pollution response operations;

(7) to support regional response team cochairs;

(8) to coordinate district participation with the regional interagency steering committee of the Federal Emergency Management Agency; and

(9) to conduct response public affairs and joint information center training.

SEC. 2229. OIL SPILL RESPONSE ORGANIZATIONS.

(a) REQUIREMENT.—Each maritime oil spill response organization that is listed under an oil spill response plan of a vessel or facility regulated by the Coast Guard, as required by section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) shall be—

(1) certified by the Coast Guard; and

(2) inspected at least once each year to ensure that the organization has the capabilities to meet the requirements delegated to the organization under applicable oil spill response plans.

(b) CERTIFICATION CRITERIA AND REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the Commandant shall develop criteria and requirements for certifying and classifying maritime oil spill response organizations.

(c) INVENTORY OF MARITIME OIL SPILL RESPONSE EQUIPMENT.—Each certified maritime oil spill response organization and any facility regulated by the Coast Guard that is not using a maritime oil spill response organization to meet the facility oil spill response plan requirements of section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) shall—

(1) maintain a current list of the maritime oil spill response equipment of the organization or facility; and

(2) submit a copy of that list to the National Strike Force Coordination Center.

(d) DECREASED CAPACITY REPORTS.—If a maritime oil spill response organization experiences a decrease in the maritime oil spill response assets of the organization, the organization shall report the decrease to the National Strike Force Coordination Center and the Captain of the Port in which that organization operates.

SEC. 2230. PROGRAM FOR OIL SPILL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE.

(a) REQUIREMENT TO ESTABLISH PROGRAM.—The Commandant shall establish a program for oil spill and hazardous substance release response, within the Maritime Center of Expertise for Oil Spill Response, to conduct research, development, testing, and demonstration for oil spill and hazardous substance release response equipment, technologies, and techniques to prevent or mitigate oil discharges and hazardous substance releases.

(b) PROGRAM ELEMENTS.—The program under subsection (a) shall include—

(1) research, development, testing, and demonstration of new or improved methods (including the use of dispersants and biological treatment methods) for the containment, recovery, removal, and disposal of oil and hazardous substances;

(2) assistance for—

(A) the development of improved designs for vessel operations (including vessel operations in Arctic waters) and facilities that are regulated by the Coast Guard; and

(B) improved operational practices;

(3) research and training, in consultation with the National Response Team, to improve the ability of private industry and the Federal Government to respond to an oil discharge or a hazardous substance release;

(4) a list of oil spill and hazardous substance containment, recovery, removal, and disposal technology that is approved for use by the Commandant and is made publicly available, in such manner as is determined to be appropriate by the Commandant; and

(5) a process for the Federal Government, State and local governments, private industry, academic institutions, and nongovernmental organizations to submit systems, equipment, and technologies for testing and evaluation.

(c) GRANTS FOR OIL SPILL RESPONSE.—The Commandant shall have the authority to make grants to or enter into cooperative agreements with academic institutions to conduct research and development for oil spill response equipment, technology, and techniques.

(d) COORDINATION.—The Commandant shall carry out the program in coordination with the Interagency Coordinating Committee on Oil Pollution Research established pursuant to section 7001(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(a)).

(e) FUNDING.—The Commandant shall use such sums as are necessary to carry out this section for fiscal years 2010 through 2015 from funds appropriated to the research, development, and testing program account of the Coast Guard for those years.

SEC. 2231. OIL AND HAZARDOUS SUBSTANCE LIABILITY.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (c)(2)(B)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) immediately deploy cleanup and mitigation assets owned by the Federal Government, or provided by private individuals or entities or foreign countries, to the location of discharge.''; and

(2) in subsection (d)(2), by adding at the end the following:

''(N) Establishment of a clear, accountable chain of command throughout the jurisdictions impacted by the discharge.

''(O) Establishment of a system and procedures that ensure coordination with, and prompt response to, State and local officials.''.

Subtitle C—Oil and Gas Leasing

SEC. 2231. REVENUE SHARING FROM OUTER CONTINENTAL SHELF AREAS IN CERTAIN COASTAL STATES.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

''(i) REVENUE SHARING FROM OUTER CONTINENTAL SHELF AREAS IN CERTAIN COASTAL STATES.—

''(1) DEFINITIONS.—In this subsection through subsection (j):

''(A) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' of a coastal State means a county-equivalent subdivision of a coastal State all or part of which—

''(i) lies within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)); and

''(ii) the closest point of which is not more than 300 statute miles from the geographic center of any leased tract.

''(B) COASTAL STATE.—The term 'coastal State' means a State with a coastal seaward boundary within 300 statute miles distance of the geographic center of a leased tract in an outer Continental Shelf planning area that—

''(i) as of January 1, 2000, had no oil or natural gas production; and

''(ii) is not a Gulf producing State (as defined in section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432)).

''(C) DISTANCE.—The terms 'distance' and 'distances' mean minimum great circle distance and distances, respectively.

''(D) LEASED TRACT.—The term 'leased tract' means a tract leased under this Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

''(E) OUTER CONTINENTAL SHELF AREA.—The term 'outer Continental Shelf area' means—

''(i) any area withdrawn from disposition by leasing by the 'Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

''(ii) any area of the outer Continental Shelf as to which Congress has denied the use of appropriated funds or other means for preleasing, leasing, or related activities.

''(2) POST LEASING REVENUES.—If the Governor or the Legislature of a coastal State requests the Secretary to allow leasing in an outer Continental Shelf area and the Secretary allows the leasing, in addition to any bonus bids, the coastal State shall, without further appropriation or action, receive, from leasing of the area, 37.5 percent of—

''(A) any lease rental payments;

''(B) any lease royalty payments;

''(C) any royalty proceeds from a sale of royalties taken in kind by the Secretary; and

''(D) any other revenues from a bidding system under section 8.

''(3) ALLOCATION AMONG COASTAL POLITICAL SUBDIVISIONS OF STATES.—

''(A) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each coastal State, as determined under this subsection, directly to certain coastal political subdivisions of the coastal State.

''(B) ALLOCATION.—

''(i) IN GENERAL.—For each leased tract used to calculate the allocation of a coastal State, the Secretary shall pay the coastal political subdivisions within 300 miles of the geographic center of the leased tract based on the relative distance of such coastal political subdivisions from the leased tract in accordance with this subparagraph.

''(ii) DISTANCES.—For each coastal political subdivision described in clause (i), the Secretary shall determine the distance between the point on the coastal political subdivision coastline closest to the geographic center of the leased tract and the geographic center of the tract.

''(iii) PAYMENTS.—The Secretary shall divide and allocate the qualified outer Continental Shelf revenues derived from the leased tract among coastal political subdivisions described in clause (i) in amounts that are inversely proportional to the applicable distances determined under clause (ii).

''(4) CONSERVATION ROYALTY.—After making distributions under paragraphs (1) and (2) and section 31, the Secretary shall, without further appropriation or action, distribute a conservation royalty equal to 12.5 percent of Federal royalty revenues derived from an area leased under this section from all areas leased under this section for any year, into the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5) to provide financial assistance to States under section 6 of that Act (16 U.S.C. 4601–8).

''(5) DEFICIT REDUCTION.—

''(A) IN GENERAL.—After making distributions in accordance with paragraphs (1) and (2) and in accordance with section 31, the Secretary shall, without further appropriation or action, distribute an amount equal to 50 percent of Federal royalty revenues derived from all areas leased under this section for any year, into direct Federal deficit reduction.

''(B) BUDGETARY TREATMENT.—Any amounts distributed into direct Federal deficit reduction under this paragraph shall not be included for purposes determining budget levels under section 201 of S. Con. Res. 21 (110th Congress).''.

SEC. 2232. REVENUE SHARING FROM AREAS IN ALASKA ADJACENT ZONE.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) (as amended by section 2231) is amended by adding at the end the following:

''(j) REVENUE SHARING FROM AREAS IN ALASKA ADJACENT ZONE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), effective beginning on the date that is 5 years after the date of enactment of this subsection, revenues from production that derives from an area in the Alaska Adjacent Zone shall be distributed in the same proportion and for the same uses as provided in subsection (i).

''(2) ALLOCATION AMONG REGIONAL CORPORATIONS.—

''(A) IN GENERAL.—The Secretary shall pay 33 percent of any allocable share of the State of Alaska, as determined under this section, directly to certain Regional Corporations established under section 7(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(a)).

''(B) ALLOCATION.—

''(i) IN GENERAL.—For each leased tract used to calculate the allocation of the State of Alaska, the Secretary shall pay the Regional Corporations, after determining those Native villages within the region of the Regional Corporation which are within 300 miles of the geographic center of the leased tract based on the relative distance of such villages from the leased tract, in accordance with this paragraph.

''(ii) DISTANCES.—For each such village, the Secretary shall determine the distance between the point in the village closest to the geographic center of the leased tract and the geographic center of the tract.

''(iii) PAYMENTS.—The Secretary shall divide and allocate the qualified outer Continental Shelf revenues derived from the leased tract among the qualifying Regional Corporations in amounts that are inversely proportional to the distances of all of the Native villages within each qualifying region.

''(iv) REVENUES.—All revenues received by each Regional Corporation shall be—

''(I) treated by the Regional Corporation as revenue subject to the distribution requirements of section 7(i)(1)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)(1)(A)); and

''(II) divided annually by the Regional Corporation among all 12 Regional Corporations in accordance with section 7(i) of that Act.

''(v) FURTHER DISTRIBUTION.—A Regional Corporation receiving revenues under clause (iv)(II) shall further distribute 50 percent of the revenues received in accordance with section 7(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(j)).''.

SEC. 2233. ACCELERATED REVENUE SHARING TO PROMOTE COASTAL RESILIENCY AMONG GULF PRODUCING STATES.

Section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) ALLOCATION AMONG GULF PRODUCING STATES FOR FISCAL YEARS 2010 AND THEREAFTER.—

''(1) IN GENERAL.—Subject to the provisions of this subsection, for fiscal year 2010 and each fiscal year thereafter, the amount made available under subsection (a)(2)(A) from a covered lease described in paragraph (2) shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

''(2) COVERED LEASE.—A covered lease referred to in paragraph (1) means a lease entered into for—

''(A) the 2002–2007 planning area;

''(B) the 181 Area; or

''(C) the 180 South Area.

''(3) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State each fiscal year under paragraph (1) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

''(4) HISTORICAL LEASE SITES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this subsection, the historical lease sites in the 2002–2007 planning area shall include all leases entered into by the Secretary for an area in the Gulf of Mexico during the period beginning on October 1, 1982 (or an earlier date if practicable, as determined by the Secretary), and ending on December 31, 2015.

''(B) ADJUSTMENT.—Effective January 1, 2022, and every 5 years thereafter, the ending date described in subparagraph (A) shall be extended for an additional 5 calendar years.

''(5) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(A) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each Gulf producing State, as determined under paragraphs (1) and (3), to the coastal political subdivisions of the Gulf producing State.

''(B) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)).''; and

(2) by striking subsection (f).

SEC. 2234. COASTAL IMPACT ASSISTANCE PROGRAM AMENDMENTS.

Section 31(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(c)) is amended by adding at the end the following:

''(5) APPLICATION REQUIREMENTS; AVAILABILITY OF FUNDING.—On approval of a State plan under this section, the Secretary shall—

''(A) immediately disburse payments allocated under this section to the State or political subdivision; and

''(B) other than requiring notification to the Secretary of the projects being carried out under the State plan, not subject a State or political subdivision to any additional requirements, including application requirements, to receive payments under this section.''.

SEC. 2235. PRODUCTION OF OIL FROM CERTAIN ARCTIC OFFSHORE LEASES.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following:

''(k) OIL TRANSPORTATION IN ARCTIC WATERS.—The Secretary shall—

''(1) require that oil produced from Federal leases in Arctic waters in the Chukchi Sea planning area, Beaufort Sea planning area, or Hope Basin planning area be transported by pipeline to the Trans-Alaska Pipeline System; and

''(2) provide for, and issue appropriate permits for, the transportation of oil from Federal leases in Arctic waters in preproduction phases (including exploration) by means other than pipeline.''.

SEC. 2236. USE OF STIMULUS FUNDS TO OFFSET SPENDING.

(a) IN GENERAL.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115) (other than under title X of division A of that Act) is rescinded, on a pro rata basis, by an aggregate amount that equals the amounts necessary to offset any net increase in spending or foregone revenues resulting from this subtitle and the amendments made by this subtitle.

(b) REPORT.—The Director of the Office of Management and Budget shall submit to each congressional committee the amounts rescinded under subsection (a) that are within the jurisdiction of the committee.

TITLE XXIII—GUIDANCE ON MORATORIUM ON OUTER CONTINENTAL SHELF DRILLING

SEC. 2301. LIMITATION OF MORATORIUM ON CERTAIN PERMITTING AND DRILLING ACTIVITIES.

(a) IN GENERAL.—The moratorium set forth in the decision memorandum of the Secretary of the Interior entitled ''Decision memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf'' and dated July 12, 2010, and any suspension of operations issued in connection with the moratorium, shall not apply to an applicant for a permit to drill if the Secretary determines that the applicant—

(1) has complied with the notice entitled ''National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)'' dated June 8, 2010 (NTL No. 2010–N05) and the notice entitled ''National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)'' dated June 18, 2010 (NTL No. 2010–N06); and

(2) has completed all required safety inspections.

(b) DETERMINATION ON PERMIT.—Not later than 30 days after the date on which the Secretary makes a determination that an applicant has complied with paragraphs (1) and (2) of subsection (a), the Secretary shall make a determination on whether to issue the permit.

(c) NO SUSPENSION OF CONSIDERATION.—No Federal entity shall suspend the active consideration of, or preparatory work for, permits required to resume or advance activities suspended in connection with the moratorium.

SEC. 2302. DEEPWATER HORIZON INCIDENT.

Not later than 60 days after the date of enactment of this Act, the Secretary shall develop, and expeditiously begin implementation of, a plan to ensure that onshore oil and natural gas development on Federal land would provide full energy resource compensation for offshore oil and natural gas resources not being developed and Federal revenues not being generated for the benefit of the United States Treasury during such time as any offshore moratorium is in place in response to the incident involving the mobile offshore drilling unit *Deepwater Horizon*.

SA 4515. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. POINT OF ORDER AGAINST CLIMATE CHANGE LEGISLATION.

(a) POINT OF ORDER.—Subject to subsection (b), it shall not be in order in the Senate to consider any conference report or other legislation that originates in the House of Representatives as a message, bill, amendment, or motion, or any Senate bill or related conference report to which the House of Representatives added a provision, that addresses climate change through the inclusion of a cap-and-trade program if the Senate has not considered and approved a bill addressing climate change that included such a cap-and-trade program.

(b) WAIVER AND APPEAL.—

(1) WAIVER.—Subsection (a) may be waived or suspended in the Senate only by an affirmative vote of ⅔ of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of ⅔ of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

SA 4516. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

DIVISION B—MORATORIUM

SEC. 2001. LIMITATION ON MORATORIUM ON CERTAIN PERMITTING AND DRILLING ACTIVITIES.

(a) IN GENERAL.—The moratorium set forth in the decision memorandum of the Secretary of the Interior entitled ''Decision memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf'' and dated July 12, 2010, and any suspension of operations issued in connection with the moratorium, shall not apply to an applicant for a permit to drill if the Secretary determines that the applicant—

(1) has complied with the notice entitled ''National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)'' dated June 8, 2010 (NTL No. 2010–N05) and the notice entitled ''National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)'' dated June 18, 2010 (NTL No. 2010–N06); and

(2) has completed all required safety inspections.

(b) DETERMINATION ON PERMIT.—Not later than 30 days after the date on which the Secretary makes a determination that an applicant has complied with paragraphs (1) and (2) of subsection (a), the Secretary shall make a determination on whether to issue the permit.

SA 4517. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

Subtitle C—Stationary Source Regulations Delay

SEC. 5301. SUSPENSION OF CERTAIN EPA ACTION.

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any provision of the Clean Air Act (42 U.S.C. 7401 et seq.), during the 2-year period beginning on the date of enactment of this Act, the Administrator of the Environmental Protection Agency may not take any action under the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any stationary source permitting requirement or any requirement under section 111 of that Act (42 U.S.C. 7411) relating to carbon dioxide or methane.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any action under part A of title II of the Clean Air Act (42 U.S.C. 7521 et seq.) relating to the vehicle emissions standards contained in Docket No. EPA–HQ–OAR–2009–0171 or Docket No. EPA–HQ–OAR–2009–0472;

(2) any action relating to the preparation of a report or the enforcement of a reporting requirement; or

(3) any action relating to the provision of technical support at the request of a State.

(c) TREATMENT.—Notwithstanding any other provision of law, no action taken by the Administrator of the Environmental Protection Agency before the end of the 2-year period described in subsection (a) shall be considered to make carbon dioxide or methane a pollutant subject to regulation under the Clean Air Act (42 U.S.C. 7401 et seq.) for any source other than a new motor vehicle or new motor vehicle engine, as described in section 202(a) of that Act (42 U.S.C. 7521(a)).

NOTICES OF INTENT TO SUSPEND THE RULES

Mr. MCCONNELL. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, Paragraph 2, for the purpose of proposing and considering the following amendment:

SA 4514 can be found in today's RECORD under ''Text of Amendments.''

Mr. JOHANNS. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII for the purpose of proposing and considering the following amendment to amendment No. 4500 to the substitute amendment No. 4499 to H.R. 5297, including germaneness requirements:

SA 4515 can be found in today's RECORD under ''Text of Amendments.''

Mr. VITTER. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, Paragraph 2, for the purpose of proposing and considering the following amendment:

SA 4516 can be found in today's RECORD under ''Text of Amendments.''

Ms. MURKOWSKI. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, Paragraph 2, for the purpose of proposing and considering the following amendment:

SA 4517 can be found in today's RECORD under ''Text of Amendments.''

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has rescheduled its July 27th hearing entitled, ''Social Security Disability Fraud: Case Studies in Federal Employees and Commercial Driver's Licenses'' for Wednesday, August 4th. The Subcommittee hearing will focus on the findings of a Government Accountability Office Report, ''Social Security Administration: Cases of Federal Employees and Transportation Driver's and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments.'' Witnesses for the hearing will include The Honorable Michael J. Astrue, the Commissioner of the Social Security Administration, and Mr. Gregory D. Kutz, Managing Director of Forensic Audits and Special Investigations at the Government Accountability Office.

The Subcommittee hearing has been rescheduled for Wednesday, August 4, 2010, at 2:30 p.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Elise Bean of the Permanent Subcommittee on Investigations at 224–9505.

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, July 29, 2010, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing on Indian Gaming.

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, July 28, 2010, at 10:30 a.m., to hear testimony on ''Examining the Filibuster: Legislative Proposals to Change Senate Procedures.''

For further information regarding this meeting, please contact Lynden Armstrong at the Rules and Administration Committee on 202–224–6352.

PRIVILEGES OF THE FLOOR

Mr. WYDEN. Mr. President, I ask unanimous consent that Drew Johnston, the Wayne Morse fellow in my Senate office, be granted floor privileges during the debate on the DISCLOSE Act.

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

Mr. SPECTER. Mr. President, I ask unanimous consent that a fellow in the office of Senator MARK UDALL, Kelly Knutsen, be granted floor privileges for the duration of the months of July and August.

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

ORDERS FOR TUESDAY, JULY 27, 2010

Mr. SPECTER. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Tuesday, July 27; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each, with the time until 12:30 p.m. equally divided and controlled by the two leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the next 30 minutes; that the Senate recess from 12:30 to 2:15 to allow for the weekly caucus meetings.

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

PROGRAM

Mr. SPECTER. Under a previous order, at 2:45 p.m. tomorrow the Senate will proceed to vote on the motion to invoke cloture on the motion to proceed to S. 3628, the DISCLOSE Act.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SPECTER. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:17 p.m., adjourned until Tuesday, July 27, 2010, at 10 a.m.