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Senate

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

PRAYER

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

Let us pray.

You have kept Your promises to us, Almighty God, and our hearts sing praises to You. You continue to supply our needs, to keep us from falling, and to work everything for our good. You prevent the weapons that are formed against us from prospering, surrounding us with the shield of Your favor.

Lord, give wisdom and knowledge to our lawmakers today. Show them Your ways and guide them by Your spirit. Lead them in the path of Your truth so that they will abide in the shadow of Your providence and permit Your constant love to sustain them.

We pray in Your great Name. Amen.

NOTICE

If the 111th Congress, 2d Session, adjourns sine die on or before December 23, 2010, a final issue of the *Congressional Record* for the 111th Congress, 2d Session, will be published on Wednesday, December 29, 2010, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–59 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Wednesday, December 29. The final issue will be dated Wednesday, December 29, 2010, and will be delivered on Thursday, December 30, 2010.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman.*

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 22, 2010.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. LEVIN. Mr. President, on behalf of the leader, today the Senate will resume consideration of the New START treaty. Yesterday, cloture was invoked on the treaty, which limits debate to 30 hours. He hopes some of the postcloture debate time can be yielded back so we can complete action on it early this afternoon.

In addition to the treaty, the majority leader would like the Senate to consider the Department of Defense authorization bill, the 9/11 health legislation for first responders, and a number of executive nominations, including that of James Cole to be Deputy Attorney General, before we leave for the holidays. Senators will be notified when any votes are scheduled.

IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011

Mr. LEVIN. Mr. President, in legislative session and in morning business, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 717, H.R. 6523, the Department of Defense authorization bill, that a Levin-McCain amendment that is at the desk be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I will not object, a lot of people may not understand that unanimous consent request that was just made by the chairman of the Armed Services Committee.

Am I correct, I ask my friend from Michigan, that this is in order to pass the National Defense Authorization Act? We have gone, I believe, 48 years and passed one, and there are vital programs, policies, and pay raises for the men and women in the military and other policy matters that are vital to successfully carrying out the two wars we are in and providing the men and women who are serving with the best possible equipment and capabilities to win those conflicts. Am I correct in assuming that is what this agreement is about?

Mr. LEVIN. The Senator from Arizona is correct. It is the bill—slightly reduced to eliminate some of the controversial provisions, which would have prevented us from getting to this point, but this is the Defense authorization bill, and 90 to 95 percent of the bill is the bill we worked so hard on in committee on a bipartisan basis. I am very certain that our men and women in uniform, as this Christmas season comes upon us, will be very grateful indeed that we did this in the 49th year—and if the House will move swiftly today and pass this bill, as we have done in the previous 48 years—passed an authorization bill—which is so essential to their success.

Mr. MCCAIN. I will not object.

Finally, I thank the chairman of the Senate Armed Services Committee. I assure my colleagues that the controversial aspects of this legislation have been removed, and only the essential parts remain. I thank the Senator from Michigan. I hope we will move forward and get this done today so that we can again provide our men and women who are serving with the best capability to defend this Nation.

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

The amendment (No. 4921) was agreed to, as follows:

(Purpose: To strike title XVII)

Strike title XVII and the corresponding table of contents on page 18.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6523), as amended, was passed.

KC–X TANKER COMPETITION

Ms. CANTWELL. Mr. President, I rise to enter into a colloquy with the esteemed chairman of the Senate Armed Services Committee, Senator LEVIN.

Mr. President, I recognize that there are objections to bringing up a bill dealing with the Air Force KC–X tanker competition requiring the Secretary of Defense to take into account any unfair competitive advantages given to any of the competitors for the contract. This provision has passed twice on the House side now by overwhelming majorities and I am shocked that the same language cannot be included in the Defense authorization bill or passed as a stand-alone bill. These are legitimate concerns being brushed under the rug rather than dealt with head on. I recognize that with such a short amount of time left in this Congress we will have trouble convincing our colleagues that we are allowing a terrible precedent to be set and an expensive injustice is being done to American workers and taxpayers. In the last competition, GAO found multiple instances of uneven treatment that when compiled showed a pervasive bias in support of EADS/Airbus. Unfortunately, we now are seeing a similar pattern of behavior emerging and I have concerns about the conduct of the competition by the Pentagon for this U.S. taxpayer-funded $35 billion contract. At every turn, it seems the Pentagon has gone out of its way to advantage EADS/Airbus for example, the Pentagon has structured the competition in ways that minimize the cost advantages of an American-made tanker; extended deadlines to accommodate EADS/Airbus; adjusted analytical models in the competition in ways that favor only the EADS/Airbus tanker; and, most recently decided to continue using the so-called IFARA war scenario model in the competition despite having inadvertently released proprietary information that disclosed Boeing's scores to EADS/Airbus. In recent press stories EADS/Airbus officials claimed they did not look at Boeing's proprietary information but it has now come out that in fact EADS/Airbus did look at it. This type of behavior is unacceptable.

In light of the serious national security and economic implications of the KC–X Tanker competition, I am respectfully requesting that the chairman of the Armed Services Committee initiate an investigation into these issues—in particular the inadvertent release of proprietary data—to determine whether or not laws and fair competition regulations have been appropriately followed. Further, I am seeking the chairman's assurance today that he intends to call departmental witnesses before the Armed Services Committee to ensure that the committee is fully informed on the progress, status, and conclusions regarding the aforementioned investigation and any other DOD investigations into this and related matters.

Mr. LEVIN. I am prepared to direct staff immediately to initiate an investigation into the release of proprietary data to determine if laws and fair competition regulations have been appropriately followed. I also intend to hold one or more hearings by February 1 to consider these issues and to review the propriety of the procurement process of the KC–X tanker competition as it relates to this issue.

PAY FOR NONREGULAR SERVICE

Mr. CHAMBLISS. Mr. President, I rise to comment on a provision in the fiscal year 2011 NDAA which the Senate passed today.

Section 635 of H.R. 6523, The Ike Skelton National Defense Authorization Act for fiscal year 2011, contains a sense of Congress concerning age and service requirements for retired pay for nonregular service. The sense of Congress serves to clarify a provision which I authored and which is contained in section 647 of the fiscal year 2008 National Defense Authorization Act. I appreciate the committee's desire to clarify the intent of that provision and ensure proper credit is given to members of the Reserve.

As can be inferred from the title of the provision in the fiscal year 2008 NDAA, the intent of the provision is to provide earlier retired pay to members of the Ready Reserve who serve in active Federal status or perform active

duty for significant periods. The sense of Congress in the fiscal year 2011 NDAA notes that the intent of the original provision was for reservists to begin receiving retired pay according to time spent deployed, by 3 months for every 90-day period spent on active duty over the course of a career, rather than limiting qualifying time to such periods wholly served within the same fiscal year. I agree with this sense of the Congress to the extent that reservists should receive credit for each 90-day period of continuous duty even though that duty may span 2 different fiscal years.

However, the original intent of the provision, as I authored it, was not to give credit for any 90 days of duty served anytime in one's career, regardless of whether or not that duty was served consecutively. This would not be ''active Federal status or active duty for significant periods,'' it would just be the normal accumulation of days served over the course of a reservists career.

My intent in the original provision was to reward reservists who were deploying or serving an active duty tour for a significant period of time. It was not to allow for early receipt of retired pay simply because, over the course of a reservist's career, the number of days served added up to 90.

I would like to yield to the honorable ranking member of the committee, the Senator from Arizona, and solicit his perspective on this matter.

Mr. MCCAIN. I thank the Senator from Georgia and appreciate his desire to clarify this provision.

I agree, as the title of the provision in the fiscal year 2008 NDAA makes clear, that the intent of the change to the law was to expand eligibility for earlier retired pay to members of the Ready Reserve who deploy on active duty in support of contingency operations for significant periods. It is unfortunate that some reservists who perform 90 days of deployed, consecutive duty or more that has spanned two fiscal years have not received credit under this provision. The sense of the Congress in section 635 of the fiscal year 2011 NDAA seeks to clarify this, and I agree with the Senator from Georgia that the duty needs to be ''for significant periods''—it should not simply be the accumulation of 90 days of duty over the course of a reservists' career.

Mr. CHAMBLISS. I thank the ranking member for his comments and I appreciate his willingness to clarify this issue.

LAND TRANSFER

Mr. PRYOR. Mr. President, I rise today to speak about an issue related to the fiscal year 2011 National Defense Authorization Act. Chairman LEVIN has worked incredibly hard to get this bill passed by unanimous consent, and I appreciate his efforts, the efforts of Senator MCCAIN and the efforts of rest of the Armed Services Committee members.

In the fiscal year 2010 National Defense Authorization Act, the chairman helped me to include language that would allow for a land exchange between Camp Joseph T. Robinson, which is an Army National Guard facility, and their neighbor, the city of North Little Rock, AR. This land conveyance is in the best interest of the military for a couple of reasons. First, the land that the Arkansas National Guard is giving up is so steep that it cannot be used for mounted or dismounted training. Second, the land cannot be totally secured due to extremely rugged terrain. Lastly, due to the lack of complete security, there is a possibility that a civilian could enter the property and be seriously injured. The land that would be gained by the Arkansas National Guard is well suited for mounted and dismounted training and able to be secured.

As all entities were working in good faith toward executing this land exchange, it was brought to my attention that we need one minor adjustment to this language. This adjustment would be a technical correction that would specify that the land exchange is to occur between the city of North Little Rock, AR, and the Military Department of Arkansas, rather than between the city of North Little Rock, AR, and the United States of America. This clarification is necessary since Camp Joseph T. Robinson is an entity of the State of Arkansas rather than an entity of the United States of America.

I understand that there was a timing issue this year and a need to pass the bill by unanimous consent in the Senate so we did not have a formal amendment process during consideration of the bill. However, this technical correction is important to Arkansas. I would ask for the chairman's assistance in addressing this issue at the first opportunity next year.

Mr. LEVIN. I appreciate the Senator from Arkansas bringing this issue to my attention, and I will work with him next year to find a resolution.

Mr. PRYOR. I appreciate the remarks of the chairman and thank him for his help on this matter. His leadership on military issues is invaluable in the U.S. Senate.

Mr. LEAHY. Mr. President, I am deeply disappointed that H.R. 6523, the National Defense Authorization Act for Fiscal Year 2011, includes a section to prohibit the transfer of terrorism suspects at Guantanamo Bay to the United States to face prosecution. This section takes away one of the greatest tools we have to protect our national security—our ability to prosecute terrorism defendants in Federal courts. The result is to make it more likely that terrorists will not be brought to justice.

Current law allows for the transfer of these terrorist suspects for prosecution in the Federal courts. This is a policy that I strongly support. I want to see those who have committed acts of terrorism convicted in our justice system and sentenced to long terms in prison.

Our Federal judges and Federal prosecutors have extraordinary experience dealing with complex terrorism and conspiracy cases. The record speaks for itself. Since September 11, 2001, over 425 persons have been convicted on terrorism related charges in the Federal courts—including more than 70 defendants since President Obama took office in January 2009.

And yet, despite this strong record, Congress continues to try to tie the hands of law enforcement and other security agencies. The prohibition contained in section 1032 of H.R. 6523 is a complete bar on transfers of terrorism suspects at Guantanamo Bay to the United States. There are no exceptions to this prohibition for Federal prosecutions. Rather than addressing the question of how to close the prison facility at Guantanamo Bay once and for all, Congress is obstructing efforts to bring these criminals to justice.

In a letter to the Senate leadership dated December 9, 2010, Attorney General Eric Holder warned that this provision would ''set a dangerous precedent with serious implications for the impartial administration of justice.'' The Attorney General further stated that, by restricting the discretion of the executive branch to prosecute terrorists in Article III courts, Congress would ''tie the hands of the President and his national security advisers'' and would be ''taking away one of our most potent weapons in the fight against terrorism,'' Accordingly, this provision is short-sighted and unwise.

This prohibition language also sets a dangerous political precedent. Once the Senate votes in favor of a total bar to transfers, even for criminal trial, we will see it offered again and again. This is a door that, once opened, will not easily be closed.

I can think of only two possible motivations for including this ban of all transfers to the United States. One is to ensure that the detainees being held at Guantanamo Bay, some for years without charge, can only be tried by military commissions. The other is to ensure that these suspects are simply held in military detention at Guantanamo Bay indefinitely. The very strict restrictions on transfers of suspects from Guantanamo Bay to other nations in section 1033 of H.R. 6523 suggests that indefinite detention is, in fact, the goal of these provisions.

For those who wish to see terrorism suspects tried only in military commissions, I urge them to study the record. The military commissions devised by the prior administration were plagued with problems and repeatedly overturned by the U.S. Supreme Court. The Obama administration has worked hard to revise the military commissions to make sure they meet constitutional standards. However, the new system is still largely untested, and the rules for these commissions were only just released earlier this year.

Military commissions have achieved only five convictions since the September 11, 2001, attacks. Four of the

five resulted from pleas. The sentences handed down in these five cases have been much shorter than those meted out in Federal court convictions. In contrast, our Federal courts have a long and distinguished history of successfully prosecuting even the most atrocious violent acts, and our judicial system is respected throughout the world.

The vital role of the rule of law and our judicial system in the fight against terrorism is also strongly supported by leaders of our military who served honorably to protect our nation and uphold the Constitution. On December 10, 2010, a group of retired generals and admirals voiced their opposition against restricting law enforcement's ability to try terrorists in Federal criminal courts, and wrote that, ''By trying terrorist suspects in civilian courts we deprive them of the warrior status they crave and treat them as the criminals and thugs they are. As long as Guantanamo is open it offers America's enemies a propaganda tool that is being used effectively to recruit others to their cause and undermines U.S. efforts to win support in the communities where our troops most need local cooperation to succeed.''

I believe strongly, as all Americans do, that we must do everything we can to prevent terrorism, and we must ensure severe punishment is imposed upon those who do us harm. As a former prosecutor, I have made certain that perpetrators of violent crimes receive serious punishment. I also believe strongly that we can ensure our safety and security, and bring terrorists to justice, in ways that are consistent with our laws and values. Congress should not limit law enforcement's ability to do just that.

Mr. LEVIN. Mr. President, the proud tradition our committee has maintained every year since 1961 continues with the Senate's passage of this, the 49th consecutive national defense authorization bill. We always have to work long and hard to pass this bill, but it is worth every bit of the effort we put into it because it is for our troops and their families as well as, obviously, our Nation. I thank all Senators for their roles in keeping this tradition going.

Our bipartisanship on this committee makes this moment, as late as it is, possible. I am proud to serve with Senator MCCAIN and am grateful for his partnership.

I thank all our committee staff members. With their extraordinary drive and many personal sacrifices to get this bill done—and we had to get it done twice because we had to modify the bill that was originally presented to the Senate, as everybody here knows. Our staff has given another meaning to this season of giving. Led by Rick DeBobes, our committee's staff director, and Joe Bowab, our Republican staff director, they have given everything imaginable, and some things unimaginable, to get this bill passed. So we thank all of them.

I ask that, as a tribute to the professionalism of our staff, and our gratitude, their names be printed in the RECORD.

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

Richard D. DeBobes, Staff Director; Joseph W. Bowab, Republican Staff Director; Adam J. Barker, Professional Staff Member; June M. Borawski, Printing and Documents Clerk; Leah C. Brewer, Nominations and Hearings Clerk; Christian D. Brose, Professional Staff Member; Joseph M. Bryan, Professional Staff Member; Pablo E. Carrillo, Minority Investigative Counsel; Jonathan D. Clark, Counsel; Ilona R. Cohen, Counsel; Christine E. Cowart, Chief Clerk; Madelyn R. Creedon, Counsel; Gabriella E. Fahrer, Counsel; Richard W. Fieldhouse, Professional Staff Member; Creighton Greene, Professional Staff Member; John W. Heath, Jr., Minority Investigative Counsel; Gary J. Howard, Systems Administrator; Paul C. Hutton IV, Professional Staff Member; Jessica L. Kingston, Research Assistant; Jennifer R. Knowles, Staff Assistant.

Michael V. Kostiw, Professional Staff Member; Michael J. Kuiken, Professional Staff Member; Kathleen A. Kulenkampff, Staff Assistant; Mary J. Kyle, Legislative Clerk; Christine G. Lang, Staff Assistant; Gerald J. Leeling, Counsel; Daniel A. Lerner, Professional Staff Member; Peter K. Levine, General Counsel; Gregory R. Lilly, Executive Assistant for the Minority; Hannah I. Lloyd, Staff Assistant; Jason W. Maroney, Counsel; Thomas K. McConnell, Professional Staff Member; William G.P. Monahan, Counsel; Davis M. Morriss, Minority Counsel; Lucian L. Niemeyer, Professional Staff Member; Michael J. Noblet, Professional Staff Member; Christopher J. Paul, Professional Staff Member; Cindy Pearson, Assistant Chief Clerk and Security Manager; Roy F. Phillips, Professional Staff Member; John H. Quirk V, Professional Staff Member.

Robie I. Samanta Roy, Professional Staff Member; Brian F. Sebold, Staff Assistant; Russell L. Shaffer, Counsel; Travis E. Smith, Special Assistant; Jennifer L. Stoker, Security Clerk; William K. Sutey, Professional Staff Member; Diana G. Tabler, Professional Staff Member; Mary Louise Wagner, Professional Staff Member; Richard F. Walsh, Minority Counsel; Breon N. Wells, Staff Assistant; Dana W. White, Professional Staff Member.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following treaty, which the clerk will report.

The assistant legislative clerk read as follows:

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms.

Pending:

Corker modified amendment No. 4904, to provide a condition and an additional element of the understanding regarding the effectiveness and viability of the New START Treaty and United States missile defense.

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

Mr. KERRY. Mr. President, we currently have two amendments, one of which I believe we will be able to accept and one of which we are working on with the Senator from Arizona to determine whether it would need a vote. We should know shortly. We will begin debate on an amendment of the Senator from Arizona. Subsequently, the Senator from Connecticut, Mr. LIEBERMAN, and the Senator from Tennessee, Mr. CORKER, have an amendment they want to proceed on with respect to missile defense. Those are the only two at this time. We hope to be able to get to final passage on this treaty without delay. The Senator from Arizona assured me they are trying to work through what that means. So I think we will proceed without any attempt to pin that down with a unanimous consent agreement at this point. Obviously, for all Senators, we want to try to do this as soon as is practical.

I yield the floor.

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

Mr. KYL. Mr. President, would it be in order for me to call up an amendment at this time?

The ACTING PRESIDENT pro tempore. The Senator is recognized for that purpose.

AMENDMENT NO. 4892, AS MODIFIED

Mr. KYL. I call up amendment No. 4892, as modified. The modification is at the desk.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

Mr. KERRY. Mr. President, if we could begin the consideration, as I mentioned, we are working on that language. I do not want to agree to the modification yet until we have had a chance to talk with the Senator about it. I am not saying we will not agree to it. I want to see if we can get that done. If we can begin on the amendment as originally filed, we can interrupt to do it with the modification. I want a chance to clear it.

Mr. KYL. I am not asking at this time there be an agreement. I am simply saying that the amendment I want to bring up is the amendment I filed.

Mr. KERRY. I have no objection to the as modified to consider it.

Mr. KYL. I will describe the modifications. They were made in an effort

to get agreement. If we cannot, that is fine, but I do think it makes it more palatable to Members.

May we have the amendment read.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4892, as modified.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require a certification regarding the design and funding of certain facilities)

At the end of subsection (a), add the following:

(11) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request advanced funding, including on a multi-year basis, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

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

Mr. KYL. Mr. President, this amendment has to do with the modernization of our nuclear weapons enterprise. It is a subject with which we began this debate. As we get toward the end of the debate, it remains a piece of unfinished business with which I think we need to deal. Remember, the nuclear enterprise we are talking about consists primarily of the facilities that are used to work on our nuclear weapons, as well as the weapons and importantly the scientists who work in those facilities. They represent our National Laboratories, as well as other production facilities and related facilities.

The point I think is important for people to remember is that unlike all of the other nuclear powers in the world today, the United States does not have an active modernization program for our nuclear deterrent, a program which enables us, for example, to remanufacture a component of a weapon and replace an existing weapon with that.

The need for this has been made very clear by all of the people in the administration who have considered this, including Secretary of Defense Gates. The Secretary, remember, is, in effect, the customer for the Department of Energy, which is the Department responsible for producing these weapons. The budget we talk about is a Department of Energy budget, but it is really to produce weapons for use by the Secretary of Defense.

Here is what he said about the need to modernize the production complex, which is what we call that group of facilities, as well as the stockpile:

To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

Each year, our Laboratory Directors and the Secretary of Energy are required to provide a certification to the President that certifies the status of the weapons in the stockpile and makes determinations as to whether those weapons are safe, secure, and reliable without the need for testing.

Each year, as we discussed in our closed session, there are reports about the status of these weapons. I will talk in a moment about the material we discussed in the closed session. But suffice it to say here that there is a great need for us to move with alacrity to bring up to date the weapons that are in our stockpile and that requires modernization of the facilities and related equipment to accomplish that task.

This will require a substantial investment over the next decade. Unfortunately, over the years, these facilities have been allowed to deteriorate, our capacity to atrophy, and our scientists to retire without doing what is necessary to bring these weapons up to date.

The current budget projection, as expressed in the 1251 report update, which was dated November 17, 2010, initiates that modernization but clearly cannot accurately predict future requirements. This is the problem we have dealt with here.

The report acknowledges that we have a problem and can estimate today what we think we can spend over the next few years—say, 5 years—but it is hard to estimate beyond that as to what the exact cost of this is going to be. I try to deal with that in this particular amendment.

The Laboratory Directors responsible for certifying our nuclear weapons recently wrote in a letter:

As we emphasized in our testimonies, implementation of the future vision of the nuclear deterrent . . . will require sustained attention and continued refinement.

In other words, each year they can get their estimates more accurate, as one might expect, and define more specifically what the exact requirements are. In this case, that generally means an increase in costs in one area or another. In fact, Vice President BIDEN, speaking to this precise problem, said:

[W]e expect that funding requirements will increase in future budget years.

We know that is going to happen. The question is, can we be any more particular in the funding that we require. My amendment seeks to be a little bit more precise or a little bit more specific than the current language.

At the crux of this modernization program is a need for a firm commitment for the construction of two critical manufacturing facilities. They are called the Chemistry and Metallurgy Research Replacement, or CMRR, plutonium facility—that is at Los Alamos Laboratory—and the Uranium Processing Facility, or UPF at the so-called Y–12 facility at Oak Ridge, TN. Without these, the capacity to perform stockpile maintenance will be lost by 2020 and there will be no capability to modernize our aging stockpile.

For Members to recall briefly, these are, in many cases, facilities that go all the way back to the Manhattan Project, the project that created the atomic weapons that enabled us to conclude World War II. Some of these buildings were built as early as 1942, and they are not in good shape. In fact, when I was with one of my colleagues from Tennessee visiting the Y–12 facility, I asked one of the people responsible for a particular part of the facility what his biggest concern was. He said: My biggest concern is keeping this thing going for another 10 or 12 years. When you see the facility, you can see that. And that is no way to deal with the most sophisticated weapons that mankind has ever invented.

As I said, the current plan is a big improvement over what we had just a year or so ago. We got together with the administration and asked them to relook at the plan they had submitted and identify areas where there were deficiencies in funding or planning. They came back with an updated report that revealed funding requirements that had previously not been dealt with. There was a little over $4 billion in funding added to the first 5 years of the 10-year program we are looking at as a result.

But even there, there was an argument that there were uncertainties, they were only at a certain point in the planning of these two large facilities, and that those funds would be inadequate.

To note something for our colleagues and of which the Presiding Officer is very well aware, being one of the two Senators responsible for the Los Alamos facilities, he will recall both he and his colleague and others of us, in visiting Los Alamos, were told about the problems of building a facility there where there theoretically could be an earthquake in the near vicinity and the costs of construction have increased dramatically because of the physical needs to protect that facility against any conceivable kind of physical problem. That has increased the cost of the facilities, and they are trying to get a handle on how much they will actually be. They are pretty clear about a ball-park estimate, but a ball-park estimate is not quite good enough for these purposes, as we know.

I will conclude by saying I am a little distressed by the news stories. We cannot expect the news media to have gotten into the detail required to actually make policy. They put it in a political context that the administration put another $4 billion into the pot and why shouldn't that satisfy people like me.

Of course, that is totally beside the point. We are simply trying to get a better handle on how much money will

be needed and to be able to plan for that funding in a way that gets it to the facilities in the most expeditious way possible so that, A, we can complete the work that has to be done in time and, B, that will save a lot of money, about $200 million a year.

There is every reason to want to understand how much it will cost and get it done quickly. It is not about adding $4 billion. That does not begin to cover the cost of these items.

It is not a matter of some kind of negotiation that additional money was thrown in the pot and is that not good enough. It is a matter of continuing to focus as the cost of these facilities evolves and as the requirements evolve, so that Congress, with the administration's request in its budgets, can provide the funding that is necessary when it is necessary to get these facilities completed as quickly as possible in order to achieve our modernization goals.

There is no dispute about the fact that there will be additional money required. It is just a question of what to do about it.

The updated budget, while committing additional funds to repairing these facilities, will not be able to eliminate even over 10 years, for example, the more than $2 billion of documented maintenance issues. There are some things that are simply outside the budget and need to be dealt with.

My biggest concern in the updated modernization plan is actually that it added to the delays. What we should be doing is trying to telescope these projects as much as possible so we can meet the deadlines for the refurbishing of our weapons—or maintenance of our weapons, I should say—rather—than extending the time for the completion of the facilities. But unfortunately, that is what the latest report did. Instead of accelerating construction of these two most critical facilities, the CMRR and the UPF, the updated plan now delays completion to 2023 and 2024, respectively, rather than 2020.

As we recall from the executive session we had a couple of days ago, there was information presented as to why these facilities absolutely needed to be completed by 2020 in order to accomplish the life extension projects for some of our weapons.

Delay in these facilities will hamper efforts to perform these critical life extensions of our warheads and not inconsequentially add significant costs, again, primarily to keep these aging facilities operational.

As an example, we have to put a brandnew roof on the facility at Los Alamos even though the facility in 10 or 12 years is no longer going to be used because it will be replaced. But the roof is so bad that the work we have to do in there is affected by the weather, and so we have to build a roof. That is an expenditure one hates to make because in 10 or 12 years that building is not going to be used anymore. But that is the state of repair we are in.

Each year of delay adds to those kinds of maintenance costs. Senator CORKER and I and Senator ALEXANDER were told at the Y–12 facility that it is about a $200-million-a-year cost to keep these aging facilities going that we can eliminate if we can complete the construction of these two large facilities.

One-fourth of the newest increase of this $4.1 billion, of which I spoke, for the next 4 years does not even go to the buildings or the facility. It simply meets an obligation for unfunded pensions that have been allowed to accumulate over the years. The only good news about that is, I guess, they would probably have stolen the money from one of the accounts that directly deals with the modernization of our weapons in order to meet those unfunded pension obligations. So I am glad we were able to put the billion dollars in there. But when they talk about $4 billion more for science work on these weapons, that is not true. Fully one-fourth of it goes to meet these unfunded pension obligations.

There is a need for things outside the science, but clearly the science requirements are the key ones we are trying to get money to as much as we can.

The key point also is that the modernization is independent of the ratification of the treaty. It is true that as we reduce the number of warheads, there is even more of a requirement that we know the warheads we have will do their job because we do not have a backup warhead sitting in a storeroom, basically in the event something does not work if that is deployed right now. It is true that as we reduce the number, we have to pay even more attention to whether they are all safe, secure, and reliable. But it is also a fact that the modernization is independent of the ratification of the treaty.

During the hearings that were conducted on this treaty, all 16 experts who provided testimony spoke of the requirement for modernization. Many indicated it is a requirement irrespective of START. That is a point that has been made by others as well.

For example, former Energy Secretary Spencer Abraham in an op-ed recently said:

> The Obama administration's decision to support increased investment in the maintenance of our nuclear weapons lab and stockpile is correct and long overdue . . . But the fact that the administration has revised its policy for the better is in itself no reason for any Senator to endorse START . . . The START treaty and beefed up funding for our nuclear enterprise are two separate issues that should remain distinct.

The point was also made by the person responsible for this modernization program—Deputy NNSA Administrator Tom D'Agostino. He said: ''Our plans for investment in and modernization of the modern security enterprise are essential, irrespective of whether or not the START treaty is ratified.''

So this has to be done whether the treaty is ratified or not, and I think everybody acknowledges that fact.

So we believe the resolution of ratification needs to address these issues by providing a couple conditions, and we have modified the original language in order to try to get an agreement. If we can't, we will vote on it and see what happens, but I am hoping my colleagues will agree.

The first is something I know has been agreed to; that is, a condition the President will provide an annual update of the section 1251 report.

The administration is agreeable to this, and it is the way for Congress to be annually advised of the status of this construction, the status of the facilities, and what more may need to be done on that. Presumably, that will be provided at or about the time the budget is sent to Congress from the administration.

Secondly, a condition the President will certify, prior to entry into force of the treaty, that the President intends—so this is not a requirement that he has achieved a particular result, but he intends to accelerate the design and engineering phase, to the extent possible, of the CMRR and UPF.

In other words, we are not asking the impossible be done, just that to the extent we can possibly do it, we accelerate the design and engineering of these two facilities so they can get done on time, rather than with the delays.

Third, that the administration—or the President—request advance funding, including on a multiyear basis, for these two facilities—the CMRR and the UPF—upon completion of the design and engineering phase of the planning.

What that means is, we are not asking them to provide advance funding for the entire projects, as is done, for example, when we construct an aircraft carrier. We are not asking it be done now, when there are still some uncertainties about exactly what these facilities need and how much they will cost. Los Alamos is still being tweaked, among other things, as I said, because of the need to make it earthquake-proof. What we are saying is, upon completion of the design and engineering phase of planning, then the administration requests advance funding and on a multiyear basis.

What that means is—and this is frequently done with large Defense Department contracts, in order to get them done as quickly as possible and as inexpensively as possible—there are multiyear advances of funding so the money can be spent, let us just say hypothetically, within a 5-year period by the Defense Department for an aircraft carrier, for example. Instead of having the Appropriations committees each year appropriate a particular amount of money, and the work that is done can only be done within the constraints of that particular amount of money appropriated in that particular year, what they say is—and I am just

speaking hypothetically—the cost is, let's say, $4 billion, and we know it is going to take about 4 years to do this. Instead of saying: Well, we are going to do $1 billion of appropriations each year, what they say is: All right. You have $4 billion, and if you can get it done more quickly by spending this money more quickly, fine. That will save us money and it will get the project done quicker. If you can't, then you can't. But that money is set aside in an account for that purpose.

That is all we are asking be done here too. These two facilities are both, in terms of order of magnitude, about $5 billion facilities. They might be a little less. They are likely to be a little more—potentially, in the neighborhood of $6 billion or so. Originally, when the administration presented its first 1251 report, the entire 10-year program was set at $10 billion. We knew that wasn't adequate. We went to the administration, they recalculated everything, brought their estimates up to date, and said: That is right, $10 billion is not going to be enough. We will add another $4 billion to $6 billion over the first 4 to 6 years.

Undoubtedly, the cost will increase above that, as has been testified to. My guess is, just in terms of order of magnitude, you are looking at roughly $20 billion over 10 to 12 years. We will know more each year this goes forward. But to construct these two facilities, if we could advance fund at least some money—let's say, 3 years' worth of the money—then it will be possible for the people who are responsible for the construction of those facilities, if they can get 15 months of work out of the first 12 months and spend more than 12 months' worth of money to get that done, that is great. They will have been able to accomplish their job more quickly. Each month that goes by adds costs to the program. So if we can provide them advance funding of some amount—we are not specifying it in here—they can probably get the project done more quickly and less expensively, and that should be a good thing. I think everybody agrees this would be the way to do it.

There have been two objections posited, to my knowledge. First, the Department of Energy has never done it this way. That, of course, is not the way for us to set policy. I saw my colleague on television this morning saying what we need is a plan. We are too focused always on what is right in front of our face. A lot of times, if we have a basic plan everybody knows we are trying to work toward, it is amazing how much you can accomplish in terms of the details. Well, this is the basic plan.

The Department of Defense does this every year because they have large-cost construction projects. The Department of Energy has never done it that way—except I am not sure that is true. Before there was a Department of Energy, the Manhattan Project was being built, and GEN Leslie Groves, who is sort of the father of the Manhattan Project, didn't have any problem at all about advance funding. He went to the President and the Congress and said: I need this money. They said: What do you need it for? He said: Don't ask questions, it is secret, and he got the money. That is an oversimplification, but he got that project done in less time than anybody could have possibly imagined because he had the resources provided to him to get it done.

So when they say it has never been done before, well, actually, it has been done before on this exact—on this exact—national defense item; namely, our nuclear enterprise. It is just that it was back in the early 1940s when people were not so, I guess, concerned about each year's budget and the appropriations that would accompany those budgets.

Secondly, the argument is made that—and this one may surprise folks—well, if we have, let's say, 3 years' worth of funding out there and that money is provided to the Department of Energy, the Members of Congress who are on the Appropriations Committee will grab that money—or parts of it that are unspent—and apply it to other things.

Think about that for a minute. The very people responsible for funding these projects in the Congress, who know they have to be done and who have agreed to the advanced funding in the first place, I think are highly unlikely, after that money has been provided, to say: Well, we need money for some water projects or something so we will go grab some of that money that isn't spent. The whole reason it isn't spent is because you have provided multiyear funding for the project for efficiency purposes. So I don't think that is a reason for us to not advance funds.

I would like to call to my colleagues' attention—and I will let my colleague, Senator CORKER, put this in the RECORD because I think either he or Senator ALEXANDER might talk about it—a letter signed by Senators INOUYE, FEINSTEIN, COCHRAN, and ALEXANDER, who presumably, in the next Congress, will be the chairmen and ranking members of the full committee and subcommittees responsible for this funding. This letter makes it clear they are committed to the full funding of the modernization of our nuclear weapons arsenal and that they are asking the President to submit budgets which will provide for the necessary funding for this and they commit themselves to support that funding.

That is important, and I don't think we can attribute a motive to Senators like this, who we all know are entirely trustworthy, that somehow after this money is advance funded, that Congress or appropriators are going to reach back and grab money they have already provided because they think there is another purpose they want to spend it for right now. So those are the reasons why I don't think that is a principled argument for why we shouldn't do this. Having this advance funding could complete these facilities on time, rather than with a 2- or 3-year delay, and we could save literally hundreds of millions of dollars.

Mr. President, I ask unanimous consent to have printed in the RECORD some additional quotations on the need for modernization from former laboratory Directors, an Under Secretary of Defense, the current Secretary of Defense, the former Secretary of State, Henry Kissinger, and there are many more we could produce.

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

ADDITIONAL QUOTES ON MODERNIZATION

Former laboratory directors: ''However, we believe there are serious shortfalls in stockpile surveillance activities, personnel, infrastructure, and the basic sciences necessary to recover from the successive budget reductions of the last five years.''[7]

Secretary Kissinger: ''As part of a number of recommendations, my colleagues, Bill Perry, George Shultz, Sam Nunn, and I have called for significant investments in a repaired and modernized nuclear weapons infrastructure and added resources for the three national laboratories.''[8]

Under Secretary Joseph: ''New START must be assessed in the context of a robust commitment to maintain the necessary nuclear offensive capabilities required to meet today's threats and those that may emerge. . . This is a long-term commitment, not a one-year budget bump-up''[9]

Secretary Gates: ''This calls for a reinvigoration of our nuclear weapons complex that is our infrastructure and our science technology and engineering base. And I might just add, I've been up here for the last four springs trying to get money for this and this is the first time I think I've got a fair shot of actually getting money for our nuclear arsenal.[10]

ENDNOTES

[7] Harold Agnew et al., Letter from 10 Former National Laboratory Directors to Secretary of Defense Robert Gates and Secretary of Energy Steven Chu. May 19, 2010.

[8] Secretary Henry Kissinger, Testimony to the Senate Foreign Relations Committee. May 25, 2010.

[9] Under Secretary Robert Joseph, Testimony to the Senate Foreign Relations Committee. June 24, 2010.

[10] Secretary Robert Gates, Testimony to the Senate Armed Services Committee. June 17, 2010.

Mr. KYL. I thank the Chair, and I will have more to say, but I will let other Senators speak.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, as I did yesterday on the floor, I wish to say I cannot thank, and I hope the Senate will feel the same way—I think our country will when they understand what Senator KYL has done—I cannot thank him enough for his thoughtful, dogged, persistent efforts as it relates to modernizing our nuclear arsenal. As a matter of fact, the Presiding Officer and I accompanied Senator KYL on a bipartisan trip to Sandia and Los Alamos to look at some of the many needs we have throughout our complex in our country, which resides at seven facilities across the country. It is that foresight that Senator KYL has displayed,

beginning years ago but especially focused over this last year, that I think has led to incredible results.

While the Senator and I are obviously going to end up in different places, it appears, on this treaty—and there is no question the treaty and modernization are two very different things—there is no question in my mind that we would not have the modernization commitments we have in hand today if it were not for the treaty. So, for me, it is this whole body of work that works together, and in my opinion makes this decision one that is very easy to make because of the entire body of work.

I wish to say that Senator KYL, through his efforts, has caused there to be two updates to what is called the Defense authorization 1251. That is something that is required by our Defense authorization bill. It focuses on expenditures to our nuclear arsenal.

I think people will realize, over the next decade, as a result of Senator KYL's efforts—and Senator KERRY's cooperation and the appropriators and the President and others—that $86 billion will be invested in modernizing our nuclear arsenal, and $100 billion will be invested in those delivery vehicles that relate to our warheads. I think people realize that while we are talking about 1,550 warheads being our deployed limit, we have 3,500 other warheads that are stockpiled all across our country and those also need to be modernized. We need to know they are available.

I think the Presiding Officer and I were able to see where neutron generators were going to expire, where the guidance system that guides many of our missiles is far less sophisticated than the cell phones we have today. In some cases, they still had tubes, such as we had in our old black-and-white televisions.

So I wish to thank the Senator from Arizona for everything he has done to cause there to be focus on this and for the fact he has caused it to be dovetailed; the fact we have an updated 1251 that reflects the needs of our country; the fact that we have four appropriators who now have committed to the President they will support this effort; the fact the President has said to them—and all this has been entered into the Record—that he will ask for these moneys to modernize our nuclear arsenal.

So, again, Senator KYL has done incredible work in this regard. I think he has informed this body, and I think it is due to his efforts and those of us who have supported his efforts that have helped to find gaps in our modernization program. We have been able to talk to the head of the NNSA and the Lab Directors to focus on those gaps.

The senior Senator from Tennessee has helped tremendously in that regard. He and Senator KYL and Senator LUGAR have actually gone through other sites—sites I did not go through with Senator KYL myself. So this has been a collective effort led by Senator KYL.

Again, I know we will end up in a different place on the treaty as a whole, but it is my hope that the administration and Senator KERRY will accept the changes Senator KYL has put forth in his amendment. It is my hope that by unanimous consent we can add this to the treaty. Even if that does not occur, there is no question that the contributions of Senator KYL to the commitments that are so important to ensuring our country is safe and secure by virtue of having a reliable, safe, dependable, nuclear arsenal not only will be evident today, but they will be evident for generations to come. For that, I thank him deeply.

I yield the floor.

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

Mr. ALEXANDER. Mr. President, I came to the floor to express my admiration for the Senator from Arizona. I was listening to his address and I heard my colleague from Tennessee.

Senator KYL's work on nuclear modernization is no surprise to any of us who know him very well because his approach to issues is a principled one, and once he determines the principle, he is dogged. He is a determined person. He basically took this issue of nuclear modernization, which is not on the lips of very many people in the United States—the question of whether our nuclear weapons are safe and reliable, whether they will work—he pulled it out of a trash bin and put it on the front page of a national debate.

He did it in connection with the START treaty, but as he said in his own remarks, this should be done whether you are for the START treaty or against the START treaty. It is completely independent, in that sense.

In my view, under no circumstances should the START treaty be ratified without doing this. That would be like reducing our weapons and leaving us with a collection of wet matches. We need to make sure what we have left works. But this is sort of the showhorse/workhorse Senator distinction. This is an issue on the back burner. It is an unpleasant issue. No one likes to talk about making nuclear weapons, each one of which could be 30 times as powerful as the bomb that was dropped on Hiroshima and ended the war, but it is a part of the reality in the United States and in the world today.

As Senator CORKER was saying and as Senator KYL said when each of us visited in different times, different places—Senator KYL came to Tennessee. I was with him there. He has talked to many more people than I have on this subject—these weapons are being modernized in facilities that are completely outdated. It would be as if we were making Corvettes in a Model T factory.

Worse than that, it is not just an inconvenience to the workers there, it is a threat to their safety, and it is a waste of taxpayers' money. As the Senator from Arizona said, after a certain number of years—I am not sure of the exact number anymore, maybe 15 years, some number of years—this pays for itself. The modernization of these facilities, the bringing them up to date, means the taxpayers will pay just as much to operate these old facilities as they would to spend $5 billion or $6 billion or whatever it is to improve these two big new facilities and the other infrastructure and the other things we need to do.

It ought to be said as well that not one of these facilities is in Arizona. This is not home cooking by JON KYL. This is a man who, for a couple decades, has made our nuclear posture his business and has made sure he knows as much about it as anyone and has made sure the rest of us paid attention to it when we might be more interested in the issue of the moment. So it is an example of a Senator doing his job very well. I am deeply grateful for that and I am proud to serve in the Senate with such a person.

I would like to mention the letters I had printed in the RECORD yesterday. They are such an integral part of the remarks of Senator KYL and Senator CORKER—the letter to the President of December 16, from Senators INOUYE and COCHRAN, the ranking members of the Appropriations Committee on both sides of the aisle, and Senator FEINSTEIN and I, who are both members of the appropriate subcommittee for dealing with this, as well as the President's response of December 20.

In concluding my remarks, I would like to also congratulate Senator KYL for his comments about advanced funding. We want to do things in an orderly way in government, but it makes no sense for us to build buildings in the most expensive way, particularly when there is an urgent deadline that is in the national interest. So if indeed by building these buildings more rapidly and saving the annual maintenance costs we could save the taxpayers hundreds of millions of dollars at a time when we are borrowing 42 cents out of every $1 and every one of us is going to be looking for ways to save money, Senator KYL's suggestion about advanced funding, which may not be the way the Department of Energy has done it before, ought to be the way we do it now. We didn't used to have a big dip like we do now. Let's look for ways to save hundreds of millions of dollars. We know we are going to have to modernize these weapons, START treaty or no START treaty, as the Senator said. We know we are going to have to save money. Let's accept the Senator's suggestion about advanced funding of these large facilities. As one member of the appropriations committee, I am going to do my best to follow his suggestion.

I am here to congratulate him for a superior, statesmanlike piece of work, both on the treaty which he has

worked to improve but also on the nuclear modernization issue which he single-handedly has put upfront before those of us in the Senate and the American people and it makes our country safer and more secure.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to thank both my colleagues from Tennessee for their very kind remarks. Actually, the place we have gotten, what we have achieved, is due to the efforts of a lot of people. It starts with Secretary Gates in the Department of Defense; Secretary Chu; Tom D'Agostino; his Deputy Director of NNSA, Don Cook; the Lab Directors who are incredible public servants. We visited with them. These are some of the brightest people in the country and the folks who work with them, many of whom, almost all of whom are about ready to retire, those people who actually designed and developed the weapons we now have. There are a lot of people who devoted their lives to what very few people know or understand. They are now being asked to do a very difficult and complicated job in very difficult surroundings.

Part of what we are asking for—it is not just a matter of convenience, as Senator ALEXANDER said, it is a matter of absolute necessity that these facilities be capable of dealing with these complex weapons. That is why they are expensive, but they are absolutely needed. I thank both my colleagues for having devoted a lot of their own time and attention to this issue and in supporting the efforts of modernization so we can get this job done properly. I appreciate their remarks.

I also would like to proffer a unanimous consent request. I ask unanimous consent to yield 1 hour of the time allocated to the Republican leader postcloture to Senator KYL.

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

Mr. KYL. I thank my colleagues.

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

Mr. THUNE. Mr. President, I do want to rise in support of the Kyl amendment No. 4892 and echo the sentiments expressed by my colleague from Tennessee about the good work of the Senator from Arizona. He has been a tireless advocate for modernization. It is something that needed to happen, irrespective of whether there was a treaty, but it certainly became a condition in order to have a treaty. If you are talking about reducing the number of your nuclear weapons, you certainly want to improve the quality of the ones you have.

Unlike other nuclear powers, the United States has not had an active modernization program for our nuclear deterrent.

We have heard from people who recognize the importance of modernizing our nuclear deterrent. I will not reiterate all of those, but I wish to point out, Secretary Gates said recently—he couldn't be any more clear that nuclear modernization is a prerequisite to nuclear reductions when he said:

> To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the numbers of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

Similarly, Thomas D'Agostino, the head of the National Security Administration or NNSA said nuclear modernization is a prerequisite to nuclear reductions, stating: " . . . as our stockpile gets smaller, it becomes increasingly important that our remaining forces are safe, secure and effective."

In the same speech I just quoted from by Secretary Gates, he pointed out: "Currently, the United States is the only declared nuclear power that is neither modernizing its nuclear arsenal nor has the capability to produce a new nuclear warhead."

It is difficult to overstate the dire condition of the U.S. nuclear weapons complex. Its physical infrastructure is crumbling and its intellectual edifice is aging. The Strategic Posture Commission, chaired by William Perry and James Schlesinger, found that certain facilities of the nuclear weapons complex are "genuinely decrepit" and the complex's "intellectual infrastructure . . . is in serious trouble."

I met with experts throughout the Senate's consideration of New START, and they confirm for me the accuracy of these descriptions. I might say to the Presiding Officer, whose State is home to Los Alamos and Sandia National Laboratories, we were able to visit those along with Senator KYL, the Senator from Tennessee and others, and had an opportunity to observe some of the facilities and buildings which are referenced in this amendment. It is absolutely clear, beyond the shadow of a doubt, that we have to make the necessary upgrades and improvements if we intend to keep our nuclear arsenal modern and prepared to deal with the threats we might face in the future.

The idea that the modernization of the U.S. nuclear complex and delivery force is an absolute prerequisite for nuclear reductions envisioned in New START has been clear to the Obama administration throughout the New START process. In fact, in December of 2009, 41 Senators wrote to the President and said in that letter:

> Funding for such a modernization program beginning in earnest in your 2011 budget is needed as the United States considers the further nuclear weapons reductions proposed in the START follow-on negotiations.

Just to be clear, what is modernization? This includes improvements to the physical elements of the nuclear weapons complex. It involves the warheads and delivery vehicles themselves as well as facility infrastructure. Modernization also requires maintenance of the intellectual capacity and capabilities underlying that complex; namely, the designer and technical workforce.

The amendment, as proposed by Senator KYL, makes clear in the resolution of ratification how critical modernization is to the United States while it is reducing its nuclear arsenal. First, the amendment places a condition in the resolution of ratification requiring the President to submit an annual update to the section 1251 report. The 1251 report is something annually that comes up here that gives us an update on the nuclear weapons arsenal. Now we will have, thanks to the amendment adopted earlier, a certification with regard to the necessary investment in delivery vehicle modernization, which is an issue I addressed in an amendment earlier in this debate and a critically important one. The Senator has already addressed that in a previous amendment that was accepted by the proponents of the treaty. That was an important step forward.

This particular amendment deals with the facilities and is also critically important. What it will do is require, in the 1251 report, that the President, when he submits his 10-year plan with budget estimates for modernization of the U.S. nuclear complex, that he also presents an accelerated design and engineering plan for the nuclear facilities and a commitment to funding those.

So this amendment, such as the one that would call for modernization of the delivery vehicles, is a critical part of the nuclear complex we have, of making sure it is reliable, that it works, and that it is ready and prepared for whatever challenge may face us in the future. As I said earlier, there are many of the experts, and you talk to the Lab Directors themselves, who recognize the importance of making the investments that need to be made in this if we are going to keep that nuclear arsenal ready.

I wish to read one other quote again. Deputy Administrator D'Agostino said:

> Our plans for investment in and modernization of the modern security enterprise are essential, irrespective of whether or not the START treaty is ratified.

I suspect before all is said and done, the START treaty will be ratified. But in any event, this process needed to be undertaken irrespective of whether there is a treaty because it is that important to the future of our country and our national security.

Again, if I might point out, very briefly, what this amendment does, the resolution of ratification must clearly call for a condition that the President will provide an annual update to the section 1251 report in that as a condition the President will certify prior to entry into force of the treaty that he intends to accelerate the design and engineering phase of the chemical facility and the uranium processing facility, request full funding for both of those facilities upon completion of the design and engineering phase of the plan, and an understanding that failure to fund the modernization plan would

constitute a basis for withdrawal from the START treaty.

This is, again, a fairly straightforward amendment. The Senator from Arizona has done, as has already been noted, a superb job of putting on the radar screen of all Members of the Senate the essential and critical nature of getting this issue of modernization addressed. He deserves great credit for doing that. I appreciate the work of the Senator from Massachusetts in cooperating with him in this treaty process to have these amendments and this language accepted because it is essential.

I think it will make not only this treaty stronger, but it will also make the nuclear complex that much stronger. And that, of course, is absolutely essential when it comes to America's national security interests.

So I support the amendment of the Senator from Arizona. I hope it will be accepted and adopted in the resolution of ratification, and that before this treaty is adopted this essential issue will be not only addressed, as it is in the underlying treaty, but addressed—that language even strengthened and made more durable by these amendments.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY.) The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I yield my hour of postcloture time to Senator KERRY.

The PRESIDING OFFICER. The Senator has that right. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from New Mexico very much. I do not intend to use that much time, but we will see what develops here.

Let me speak quickly to this amendment. I want to begin by saying everyone in this Senate is respectful of how hard the Senator from Arizona has worked to bring attention, appropriate attention, to the effort to keep up our nuclear deterrent. He has pushed to correct what this administration saw as too many years of neglect for the work of the nuclear weapons complex. I am glad to say this administration has not only heard him, but many other Members of the Senate, from both sides of the aisle, have joined in this effort to call attention to the modernization needs of our nuclear deterrent.

The administration has appropriately pushed hard for an unprecedented level of funding for this work. In these difficult budgetary times, I do not think anybody here would argue that moving a 10-year budget from $70 billion to over $85 billion, which they have done, what President Obama has done, shows an extraordinary commitment to this enterprise by this administration.

That is why the three directors of the nuclear laboratories told Senator LUGAR and me, ''The proposed budgets provide adequate support to sustain the safety, security, reliability and effectiveness of America's nuclear deterrent within the limit of 1,550 deployed strategic warheads established by the New START treaty, with adequate confidence and acceptable risk.''

That is also why Tom D'Agostino, the head of the National Nuclear Security Administration, could say a few days ago, ''Having been appointed to my position by President George W. Bush, and reappointed by President Barack Obama, I can say with certainty that our nuclear infrastructure has never received the level of support that we have today.''

Given all that has happened in the past year, all that has been certified and pledged, and all that we know the administration absolutely plans to do, it is hard to understand why anyone has a question about the nuclear stockpile provision at this point in time.

This particular amendment, unnecessary therefore in the light of what I have just said, does not present fundamental problems in terms of the words ''to the extent possible we should accelerate.'' That is exactly what they are doing. They are accelerating, to the extent possible.

But paragraph B presents a number of different issues. Most importantly, the amendment itself requires that the treaty not go into force until all of the these additional certifications are made. The administration has made it crystal clear that it is committed to funding these facilities. If you read the update section of the 1251 report that the administration provided, at Senator KYL's request, and they provided that in November, here is what they say: The administration is committed to fully fund the construction of the uranium processing facility and the chemistry-metallurgy research replacement, and is doing so in a manner that does not redirect funding from the core mission of managing the stockpile and sustaining the science, technology, and engineering foundation.

So before we come to this moment, Senators were concerned about whether the administration was committed to the facilities. Then the administration made it very clear they are committed. The President made that commitment as clear as could be in 1251. Now the concern is, they are not building the facilities fast enough.

Well, that runs completely contrary to what the people designing it think is happening and want to do. And, incidentally, if you put additional funding into hiring additional people, by the time you find them and get them, and they are qualified and they come, they are going to be finished with the job of the additional design and early construction planning.

If this were a post office we were trying to think about building, maybe you could be a little more sanguine about saying, go ahead and accelerate it. But we are talking about multibillion-dollar, complicated facilities that require very significant, sensitive, difficult substances management. They are going to take a certain number of years to build. That is a reality. That is how complex and challenging the task is.

The early cost and design estimates are that the uranium facility is going to cost somewhere between $4 billion and $6 billion, and the plutonium facility is going to cost about the same. So we all remember the old saying around here, we have got a lot of Senators who are talking about waste in the process of governance. The last thing we want to do in this budget, in my judgment, is create an environment of haste that does not measure properly what we are doing. We ought to listen to the experts on this a little bit, the people who are doing the design and the engineering, who tell us it is no simple matter in the world of nuclear weapons production. It involves hundreds of scientists and engineers working on every single aspect of the plant, in order to make sure it is going to work, that it is going to be secure, and it is going to be as safe as humanly possible.

You cannot just throw money at an ongoing design and engineering effort and then automatically expect it can accelerate beyond an already significant increase. We have gone up $15 billion. If you hire a whole bunch of engineers who are new to the project, they do not know what they are doing yet. That is a recipe for both inefficiency and possibly even the increase of design risks or other kinds of issues.

The truth is, if you cram all of these billions into a very short fiscal period, in addition to that, as this amendment seeks to try to force, you could unnecessarily create competition within other nuclear weapons activities, such as the ongoing warhead life extension programs, and our critical warhead surveillance efforts.

The bottom line here is there is a place and a way to do this. We have an authorizing committee. The Armed Services Committee is the committee that ought to be doing this, not some amendment that comes in attached to the treaty, and linking the treaty going into force to all of these other things being certified.

I think the Appropriations Committee, as well as the Armed Services Committee, would powerfully endorse that notion here on the floor at this point in time. We can compel the President to ask for upfront funding. But that does not guarantee that the President is necessarily going to receive it. And this links it to the notion he can certify that he has.

So I agree with my colleague, the last administration took way too long to focus on this issue, and Senator KYL has done an important service to the Senate, to the country, and to this process, to help to focus on it. But it makes no sense to use a resolution on a treaty to lock the President into doing something he cannot necessarily do because of the Congress and other things that are tied to it.

I reserve the balance of my time.

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

Mr. ALEXANDER. I ask unanimous consent to have 4 or 5 minutes.

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

Mr. ALEXANDER. I listened to Senator KERRY's remarks just now. This is an excellent discussion. Not only do I applaud Senator KYL for resurrecting the whole focus on nuclear modernization, I applaud the President for the updated report that was received on November 17. A lot of work was done. This is a lot of money to say we want to make sure these nuclear weapons work and we are going to spend $85 billion over 10 years.

The intent of Senator KYL's amendment, though, is not to tie the President's hands, it is to give him more options. I think it is to encourage this big, slow-moving government not to waste the money but to save money. The language says: The President shall certify to the Senate the President intends to accelerate, to the extent possible, the design and engineering phase.

At the Oak Ridge facilities, which Senator KYL visited, he was told that the savings annually to taxpayers of having the new facility versus the old facility are in excess of $200 million. So every year we do it, every year this is completed, the taxpayers save $200 million. So if the President and the Appropriations Committee should decide that a 2-year or 3-year advanced funding will save $200 million a year at a time when we are all dedicated to trying to save money, we should do that.

You might say, well, why do we need to say this in the Senate? The answer is, we have never done it before. And the U.S. Government, if you have never done it before, takes a little nudge to pay attention to it.

So Senator KYL has made an amendment, and if I understand it correctly, Senator KERRY amended the amendment a little bit to make it softer, to say, the President intends to accelerate, to the extent possible. So this is suggesting to the Department of Energy, which has never done it this way before, that we think it is a good idea, if it is practical, and if it saves money.

There is also the matter of getting it done on time. Senator KYL talked about that, the dates we talked about in the executive session. So I would argue to my colleagues that the Kyl amendment is respectful of the President's prerogatives, which he ought to have. He is the manager of the government. He is the Commander in Chief. But it says: If we can think of a way to do this in a way that saves $200 million a year, year after year after year, why should we not do it?

I will bet during the next session of Congress, if we do our job properly in this body, we are going to be competing with each other to find ways to save $10 million a year, $20 million a year, $100 million a year, because of the incredible deficit. We have got bipartisan concern about that deficit. We had two Democratic Senators and three Republican Senators support the debt commission.

I would suggest to my friend from Massachusetts it is not possible that you have modified the Kyl amendment to the extent it ought to be accepted, so that the President can get a signal from the Senate that if he thinks he can do this, to the extent possible, that accelerating the building of these big facilities by 2 or 3 years, if it would save $400, $500, $600 million, that we want to encourage him to do that. That is my only thought.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator very much for his participation and contribution to this effort. I am trying to work to see if—as I have said, there are certain components of this that make it difficult to accept, that multiyear piece and so forth.

But the notion of reaffirming the commitment the President has made is not difficult to make. From our judgment, the President has really addressed this as significantly as one can by putting the $85 billion there, by making it clear they are moving forward, they are going to fully fund it, and by helping the Appropriations Committee members to provide the letter which speaks to their good faith going forward. All of those steps have taken place.

We just don't want to get into a situation where we are creating another hurdle to get over before the treaty goes into effect. If we could find a way as a declaration or some way to reframe this condition—I am working with the administration to see if we can do that—we would be happy to try to restate it.

Mr. ALEXANDER. I thank the Senator. No one is doubting the President's commitment. He has made an extraordinary commitment. I congratulate him for that. It is just the suggestion of doing it a little differently, if the President thinks it is practical, because it might save $200 million a year, year after year after year. A suggestion from us like that could make the difference in those savings. I thank the Senator for working in that spirit.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. I ask unanimous consent to speak for up to 15 minutes.

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

Mr. CASEY. Mr. President, as we continue to work through the amendments, I rise to outline what is at stake in the debate and describe what the world would be like without the New START treaty accord.

Every Senator here took an oath to support and defend the Constitution against all enemies foreign and domestic. We have an obligation to support a strong national defense.

First, a world without New START is one in which more nuclear missiles are pointed at Americans. This treaty reduces that number.

A world without a New START accord is one in which we have no nuclear inspectors on the ground in Russia. These inspectors have more than a decade of experience inspecting Russian nuclear sites. They were involved in the negotiation process to ensure that there are strong inspection provisions in the treaty. But without New START, these inspectors would not be able to return to work. Furthermore, without onsite inspections, our intelligence services will still be required to collect information on Russia's nuclear weapons infrastructure.

On December 20 of this year, ADM Mike Mullen, Chairman of the Joint Chiefs of Staff, wrote to the Senate:

> An extended delay in ratification may eventually force an inordinate and unwise shift in scarce resources from other high priority requirements to maintain adequate awareness of Russian nuclear forces.

In a world without New START, our intelligence capabilities will be stretched, which could give the enemies of our troops on the ground an advantage. We cannot allow that to happen.

These are just some of the direct effects. What about some of the indirect effects of a world without New START? The cascade effect on U.S. national security interests without New START is substantial.

A world without New START is one in which the Russians are less likely to provide land and air access to supply U.S. troops in Afghanistan. The Northern Distribution Network is a crucial supply route for our troops in Afghanistan. This means that just as we have reached full troop strength in Afghanistan, supply lines would become increasingly strained. Today, supply routes through Pakistan are increasingly dangerous. Just the other day, two fuel tankers meant to supply our troops were attacked and the drivers were killed in Pakistan. This is one of the reasons the leadership of our uniformed military want New START ratified.

A world without New START is one in which there is more Russian fissile material in existence, material which could be stolen for use in a terrorist attack.

There are many reasons top U.S. counterterrorism officials in the International Atomic Energy Agency want New START ratified.

A world without New START is one in which Russia's Government is perhaps less likely to help stop Iran's nuclear weapons program. A world without New START is one in which Iran perhaps is given access to Russian S–300 missiles, a weapon capable of reaching the State of Israel. This is one reason the Anti-Defamation League, B'nai B'rith, the American Jewish Committee, and other prominent pro-Israel groups want New START ratified.

In a world without New START, there is no way the Russians will agree to decrease their tactical nuclear weapons. Our friends in Eastern Europe and those across the continent will be less secure in the knowledge that threats to their security are not diminishing but could, in fact, be growing. That is the reason 25 European Foreign Ministers want this treaty ratified.

A world without New START is one in which the 1970 Nuclear Non-Proliferation Treaty, the so-called NPT, the cornerstone of preventing nuclear weapons states, is severely threatened. What does this mean in practical terms? The New START accord is a clear demonstration that the United States is upholding our obligations under the NPT, which in turn can help secure support from other countries for a strong arms control regime and assistance on other nonproliferation issues. Many countries see nuclear terrorism as a problem for the United States and for the West. In a world without New START, these countries would seriously question our commitment to the NPT. These countries would question that right away.

Without New START, government officials around the world will question the U.S. commitment to nonproliferation itself. They will ask: If the United States is not seriously committed to arms control and nonproliferation, why should we be?

A world without New START contains many hard realities for the United States. Ratification of this treaty is not a political victory for one party or another; it is a national security victory for our great Nation, for our nuclear security—from nuclear security, to the security of our troops in Afghanistan, to the security of our ally Israel.

A world without New START is one in which the enemies of America will breathe a little easier. Strained U.S. supply lines make life easier for the Taliban. Fewer available intelligence capabilities would make life easier for al-Qaida terrorists in Pakistan tribal areas. A strained U.S.-Russian relationship makes life easier for the government of the regime in Iran.

A world without New START makes life easier for terrorists trafficking in fissile material to travel across borders.

A world without New START means no negotiations with the Russians to decrease their tactical nuclear weapons.

The world I just described isn't a world we have to settle for. A world without New START is not a world we have to accept. We must give the American people some peace of mind as to our national security. That is a world with a New START treaty. We must ratify this treaty and diminish the number of nuclear weapons pointed at the United States today. We must deploy nuclear inspectors to Russia, thus returning stability and transparency to our nuclear relationship, and take the burden off of our intelligence agencies.

A world with New START means a more constructive relationship with Russia, which is good for our troops in Afghanistan and bad for the regime in Iran.

A world with New START means the beginning of a conversation with the Russians on tactical nuclear weapons.

A world with New START is one in which there is less fissile material for terrorists to steal or buy on the black market.

A world with New START means increased cooperation with countries combating nuclear terrorism. The most serious threat to U.S. national security is the threat of nuclear weapons in the hands of terrorists. In 1961, at the United Nations, President John F. Kennedy said:

> Every man, woman and child lives under a nuclear sword of Damocles, hanging by the slenderest of threads, capable of being cut at any moment by accident or miscalculation or by madness.

Some have observed that in this post-9/11 era of increased terrorism, we may be more vulnerable to a nuclear attack than we were during the Cold War. Today, the sword of Damocles still hangs by the slenderest of threads, but we have the ability to prevent this threat by minimizing access terrorists would have to nuclear material.

President Obama's nuclear security summit earlier this year was a historic event. It helped create a foundation upon which other countries will take up the challenge of nuclear security and cooperate with the United States to accomplish the President's goal of securing all fissile material in 4 years. We cannot do this alone. In order to confront this most serious threat to U.S. national security, we need to build stronger ties with our allies around the world, and part of building that trust is rebuilding our own credibility on nonproliferation issues. This New START agreement is a very positive step in that direction. It is an essential predicate for fulfilling our commitments under the nonproliferation treaty—a key marker for many potential allies on a range of nuclear security issues. Upon ratification of New START, we must make progress on securing fissile material around the world.

This is a strong resolution of ratification. It passed out of the Foreign Relations Committee by a bipartisan vote of 14 to 4. It includes strong language on missile defense, verification, and tactical nuclear weapons.

Finally, the American people are watching. According to a November 2010 CNN poll, 73 percent of Americans support ratification of this treaty. They understand the implications of a world without the New START agreement.

In a hurricane of partisan rancor and political battles, the national security consensus is as strong as an oak tree in support of the New START agreement—all six living former Secretaries of State, five former Secretaries of Defense, three former National Security Advisers, seven former commanders of the U.S. Strategic Command, the entire Joint Chiefs of Staff, our intelligence services, the President, and three former Presidents.

The American people have a right to expect ratification of New START. They want New START and will hold us accountable if we do not ratify it. Let's vote for New START's resolution of ratification and cast a strong bipartisan vote in favor of our national security.

I close with commendations for both our chairman, Senator KERRY, and Ranking Member LUGAR and so many others who have worked so hard to make sure we can ratify this treaty.

I yield the floor.

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

Mr. CORNYN. Mr. President, may I inquire, is there any time limitation on Senators at this point?

The ACTING PRESIDENT pro tempore. The Senate is operating postcloture, and each Senator has up to 1 hour.

Mr. CORNYN. I thank the Chair. I assure my colleagues, I will not use the full hour, which I am sure is good news.

Mr. President, I oppose the ratification of the New START treaty for the reasons many of my colleagues have articulated and to which I have previously spoken. The treaty requires unilateral reductions of the United States on strategic nuclear weapons. It fails to address tactical nuclear weapons—an area in which the Russian Federation has a 10-to-1 advantage. This is not an idle or incidental matter.

GEN Nikolai Patrusheb, Secretary of the Russian National Security Council, a body in charge of military doctrine, has declared that Russia may not only use nuclear weapons preemptively in local conflicts such as Georgia or Chechnya but may deliver a nuclear blow against the aggressor in a critical situation, based on intelligence evaluations of his intentions.

I submit also that the verification provisions of this treaty are weak, allowing only 18 inspections a year for an arsenal of more than 1,500 weapons. Obviously, the ability to get more than a sampling of Russian Federation compliance would be impossible given the relatively few number of inspections permitted under the treaty.

As we have discussed off and on over the last few days, the preamble of the treaty itself is ambiguous and has been construed by the Russians themselves as limiting the ability of the United States to expand its own missile defense system.

I realize the President of the United States has submitted a letter stating his unilateral opinion of what that treaty obligation means, but, of course, treaty obligations are not unilateral declarations, they are bilateral agreements. Of course, the consequence of a

misunderstanding over this important issue of missile defense could allow either side to withdraw from the treaty and, indeed, the threat of withdrawal from the treaty because of this misunderstanding is something that could be avoided in the first instance if, in fact, some of the amendments addressing missile defense were allowed and the treaty modified to that extent. At that time, the Russians could then be asked: Will you agree with this modification, and we would know upfront, not on the back end, their sincere intentions.

But I would say that the New START treaty has flaws when you look at it, not only in its various provisions; that is, when you reason from the whole to its parts, but I would suggest the treaty also fails when you look at it the other way around, when you reason from the parts to the whole, when you see this treaty is another example, another symptom, of a foreign policy that sends a message of timidity, even ambivalence, not only about our own security but about America's leadership role in a very dangerous world.

This larger strategic context is what we need to keep in mind. We all know that President Obama has set incredibly high expectations for his Presidency in terms of how he would conduct American foreign policy. In an early Presidential debate, for example, he promised to meet with the leaders of five rogue nations—Iran, Syria, Venezuela, Cuba, and North Korea—''without precondition during the first year of [his] administration.'' Well, we now know that never happened.

After he won the nomination, you will recall, in his famous speech he gave in the city of Berlin, while still a candidate for the Presidency, he declared he was a ''citizen of the world.'' Also, he said: ''This is the moment when we must come together to save this planet.''

President Obama was not the only one promoting a grandiose vision of his Presidency. Remember the Nobel Prize Committee received his nomination for the Peace Prize less than 6 weeks after President Obama took office. In the citation for the award last year, they said:

> [President] Obama has as President created a new climate in international politics. . . .
>
> Only very rarely has a person to the same extent as Obama captured the world's attention and given its people hope for a better future.

You might ask, What relevance does this have to our consideration of the START treaty? The relevance is that a big part of this utopian dream of a ''new climate in international politics'' has been the elimination of all nuclear weapons.

In that Berlin speech, then-Senator Obama said that one of his priorities was to ''renew the goal of a world without nuclear weapons.''

The citation for the Nobel Peace Prize included this observation:

> The Committee has attached special importance to Obama's vision of and work for a world without nuclear weapons.
>
> The vision of a world free from nuclear arms has powerfully stimulated disarmament and arms control negotiations.

Indeed, in an op-ed piece, authored by the Secretary of State Hillary Clinton, dated April 7, 2010, in the Guardian, she argues that the START treaty is an important step toward a nuclear-free world.

So you might ask, what is wrong with a vision of the world without nuclear weapons? Can't we hope and dream? Of course, even without nuclear weapons, we know that in World War I and World War II tens of millions of people lost their lives in armed conflict. So it is not as if a world without nuclear weapons is a world without war and a world without danger for peace-loving nations such as ours and our allies.

We also know that any number of foreign policy experts have expressed serious reservations about indulging in this fantasy of a world without nuclear weapons.

George Kennan has said:

> The evil of these utopian enthusiasms was not only or even primarily the wasted time, the misplaced emphasis, the encouragement of false hopes. The evil lay primarily in the fact that those enthusiasms distracted our gaze for the real things that were happening. . . .The cultivation of these utopian schemes, flattering to our own image of ourselves, took place at the expense of our feeling for reality.

The President of the United States has not only mused about fantastic notions that have no basis in the real world, he has criticized his own country on foreign soil so often that some called that particular trip ''the world apology tour.''

So what should our competitors and would-be adversaries make of these statements of a fantasy world that is nuclear free and a President who travels abroad and apologizes for America's strength? Regretfully, I can only conclude it sends an impression of weakness and a lack of determination to maintain America's leadership in the world. We know there are dangerous consequences associated with an interpretation by others that America has lost its resolve to lead the world or to maintain its own security and to protect its allies.

President Reagan said famously:

> We maintain the peace through our strength; weakness only invites aggression.

Experience has proven the truth of those words.

We should recall that the President of the United States conducted YouTube diplomacy by recording a video for Iran's leaders—but then withheld comment when those same leaders were brutally crushing a pro-democracy movement and their own people's hopes for freedom.

The President has treated several of our allies without the respect they deserve. Some have been, like Britain, slighted; others, like Israel, have been lectured; and other of our allies have been thrown under the bus on missile defense, like Poland and the Czech Republic.

He has been so idealistic and naive, you might say, about the subject of nuclear weapons that President Sarkozy of France remarked about it publicly at a meeting of the United Nations Security Council. He said:

> We live in the real world, not in a virtual one. . . .
>
> President Obama himself has said that he dreams of a world without nuclear weapons.
>
> Before our very eyes, two countries are doing exactly the opposite at this very moment.

President Sarkozy said:

> Since 2005, Iran has violated five Security Council Resolutions. . . .

He said:

> I support America's ''extended hand.'' But what have these proposals for dialogue produced for the international community?
>
> Nothing but more enriched uranium and more centrifuges.
>
> And last but not least, it has resulted in a statement by Iranian leaders calling for wiping off the map a Member of the United Nations.

I fear the New START treaty will serve as another data point in the narrative of weakness, pursuing diplomacy for its own sake—or indulging in a utopian dream of a world without nuclear weapons, divorced from hard reality.

Last week, I mentioned that Doug Feith, formerly of the Defense Department, helped negotiate the Strategic Offensive Reductions Treaty, known as the SORT treaty. Mr. Feith said that during the negotiations of the SORT treaty, the Russians were constantly trying to get the United States to negotiate away our right to defend ourselves from missile attacks through a robust missile defense program.

The Bush administration rightly rejected those Russian demands and—you know what—we got a good treaty anyway. The Obama administration, on the other hand, gave Russia what it wanted—or what it says it wanted—among other concessions. But that is not the only concession that was given under the New START treaty.

I would ask my colleagues, Where are the concessions that Russia made to us in this treaty? Where are the concessions that Russia made to us? And what in the treaty is a good deal for the United States?

But my colleagues may reply, So what. So what if the Obama administration's world view is a little bit naive. So what if the Russians negotiated a much better deal for themselves than the Obama administration got for the United States. Shouldn't we go ahead and approve the treaty anyway? What harm could it do? Couldn't it help build a better relationship with the Russian Federation and help transform America's reputation in the world?

Those are actually good questions. But the answers are sobering. The administration has long argued that its approach to diplomacy was not only

good for its own sake, but it would strengthen relationships with nations all around the world. I would ask you, how has that worked out?

Charles Krauthammer reviewed the global response to President Obama's diplomatic overtures in this way. He said:

> Unilateral American concessions and offers of unconditional engagement have moved neither Iran nor Russia nor North Korea to accommodate us.
>
> Nor have the Arab states—or even the powerless Palestinian Authority—offered so much as a gesture of accommodation in response to heavy and gratuitous American pressure on Israel.
>
> Nor have even our Europe allies responded: They have anted up essentially nothing in response to our pleas for more assistance in Afghanistan.

And, of course, we could look at the results of the New START treaty itself. Russian leaders have responded to American concessions with contempt. Russian Foreign Minister Sergey Lavrov has said that the treaty ''cannot be opened up and become the subject of new negotiations.'' Prime Minister Putin has threatened a new arms race if Russia does not get its way with this version of the treaty. Russian leaders have the temerity to lecture and attempt to intimidate the Senate from discharging our constitutional responsibilities. We should not succumb.

In deciding whether to vote for the treaty, I would respectfully ask whether some Senators have been asking themselves the wrong question. Instead of asking ourselves the question, Why not ratify? What is the harm? I would suggest that the better question is, Why should we? I would urge my colleagues to vote against this treaty not because I do not care about the message it will send to Russia and other nations but because I do care about that message, and it is time we stop sending a message of weakness that only encourages our adversaries.

I urge my colleagues to vote no on this treaty, to require the administration to go back to the negotiating table with the Russians, to get a better deal for the United States, and to make clear that the era of unilateral American concessions is over.

Mr. President, I yield the floor.

Mr. VITTER addressed the Chair.

Mr. KERRY. Mr. President, I would simply ask to get a sense of how long the Senator thinks he might speak. We might line up the next speaker.

Mr. VITTER. Five minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that when the Senator from Louisiana is finished, the Senator from Florida, Mr. NELSON, be recognized for 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I thank my colleague.

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

Mr. VITTER. Mr. President, I too am opposing the ratification of this New START treaty because I think it makes us less secure, not more secure, as a nation. Of course, that has to be the ultimate test.

A toughly negotiated, balanced treaty with Russia which allowed for adequate and reliable inspections and data exchange could make us more secure. But this is not such a treaty. It is clear to me that President Obama went into negotiations willing to give up almost anything for a treaty, and that basic posture produced what it always will—a bad deal for us.

The proponents of the treaty suggest as much when they lay out as their top arguments for ratification: a better relationship with Russia, the help from Russia on other issues that ratification could engender, and progress with world opinion.

I think it is dangerous to count on any of that or to look at all beyond the four corners of the treaty—the pros and cons of the details and the substance of the treaty itself.

When I look within the four corners of the treaty, I am particularly concerned about four cons of the treaty.

First, serious roadblocks to missile defense: I think it is a fundamental mistake and a dangerous precedent for any treaty on offensive arms to even mention missile defense, and Russia has made it clear that any major progress on U.S. missile defense will cause them to leave the treaty. Particularly with President Obama in office, this creates real political obstacles to the full missile defense I support and the American people support in great numbers. Indeed, President Obama has already abandoned our missile defense sites in Eastern Europe to help produce an agreement on this treaty by the Russians.

Second, fundamentally imbalanced arms reductions: In this treaty, we reduce our nuclear arms significantly; Russia stays where they already are. Meanwhile, we still aren't getting to the issue of tactical weapons, a category where Russia has a huge 10-to-1 advantage. We have talked about that for decades, and we still aren't getting there. Clearly, when the United States has leverage to commit Russia to reduce their tactical nuclear weapons as we do right now before this treaty, and those nuclear weapons are the most vulnerable to end up in terrorists' hands, we must use that leverage and not throw it away for U.S. and global security. Instead, proponents of this treaty argue that a further treaty addressing tactical nuclear weapons in the future will materialize, but the leverage we have to get there is being given up, essentially, with this treaty.

Third, inability to verify: This treaty does not give us the inspections and data we need to verify Russian compliance, and we know Russia has cheated on every previous arms control treaty with us. Verification is clearly less under New START than in START I, but it now needs to be greater because the nuclear deterrent under this treaty would be much smaller and thus produce much less room for error.

Fourth and finally, major but ultimately inadequate progress on nuclear modernization: Now, major progress has been made during the ratification debate on the administration's commitment and concrete plans for nuclear modernization. I thank everyone who has helped produce that, particularly the leader in that effort, Senator JON KYL, for his work which, again, did produce real progress. But, ultimately, neither the specificity of the administration's commitment, including on the nuclear triad issue, nor the proposed schedule is adequate to our security needs, so I will certainly continue fighting to get where we need to be.

So, in closing, I urge my colleagues to look hard at this treaty and to ask the only ultimate question: Does it make us less secure or more secure? I think clearly for the four major reasons I have outlined, and others, it makes us less secure, and we need to do far better.

Thank you, Mr. President. I yield the floor.

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

Mr. NELSON of Florida. Mr. President, I rise in support of the New START treaty. I wish to make a comment. I was raised in a time that when the President of the United States went abroad, he spoke for our country and there was no partisanship when that occurred.

It is troubling to this Senator to hear comments about our President when he goes abroad in an apology tour. I would beg to differ, and I think we ought to rise above that partisanship when issues of national security are at stake.

Now to the treaty. This agreement with Russia is going to strengthen our national security. Look at all the people in the Pentagon who have embraced it—the former Secretaries of State, the former Secretaries of Defense, from both sides of the political aisle, and it deserves our support too. I expect today we are going to get an overwhelming bipartisan vote in favor of this treaty.

I wish to specifically address the question that has been raised about modernization of our nuclear stockpile—an issue I had the privilege, as chairman of the Strategic Subcommittee of the Armed Services Committee, to be engaged in over a 4-year period. Arguments have been made that somehow this treaty is going to interfere with the modernization of our nuclear weapons infrastructure. Well, it is exactly the opposite. Ratification of this treaty is so important to give security and stability to the question of the use of those nuclear weapons that it will allow us to spend the needed resources on the modernization of our nuclear complex, which is an equally important matter.

As part of this year's Nuclear Posture Review, the administration has

made a commitment to modernize our nuclear weapons arsenal and the complex. We must do so to maintain a credible nuclear deterrent because as these weapons in stockpile age, we have to update them and we have to modernize them so they are effective, secure, but also safe. We need to be sure our nuclear weapons are going to work as designed and that they will remain stable and secure.

In the past, when we maintained a larger and more expensive nuclear stockpile, our weapons were developed and tested frequently. That is very expensive. By the mid-1990s, we had developed sophisticated computer models that can identify and resolve the problems without the nuclear testing. Unfortunately, because of lessened funding back in the era of about 2006 that research diminished, resulting in the layoffs of a lot of the people in our National Labs. I have had the privilege of visiting those three National Labs. There is an incredible array of talent, but that is what happened back in 2006.

I think we have, especially in this administration, a new resolve to turning the situation around and to modernizing the nuclear complex. So what does this modernization entail? The comprehensive plan includes an $85 billion investment over the next decade and a $4 billion increase over the next 5 years, and that investment is going to accomplish several things. It is going to fund the construction of the 21st century uranium and plutonium processing facilities, it is going to spur a reinvestment in the scientists and engineers who perform the mission, and it is going to enhance the lifetime extension program for our nuclear weapons. By the way, it is not only just extending the life of those weapons, it is also making them safer.

Some Senators have expressed concerns about the level of funding for this modernization. I believe our President and this administration have adequately addressed those concerns, and I would note that the Directors of the three labs—Los Alamos, Lawrence Livermore, and Sandia—all believe the administration's current plan will allow them to execute their requirements for ensuring a safe, secure, reliable, and effective stockpile.

While we move forward with that modernization program, we should also move forward—it is a separate issue—with the treaty. Passing this treaty is going to safeguard our national security while demonstrating to the men and women of our nuclear complex that we have reached a national consensus on nuclear sustainability.

Mr. NELSON of Florida. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent that cosponsors be added to Corker amendment No. 4904, as modified, as follows: Senator LIEBERMAN, Senator BROWN of Massachusetts, and Senator MURKOWSKI.

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

The Senator from Massachusetts.

Mr. KERRY. Mr. President, we are awaiting the Senator from Arizona who, I know, is working on a couple of things right now. We need to clear a couple of things with the Senator, and we are working on the possibility of accepting his amendment. We just need to tie up those loose ends.

So I think the Senator from Wyoming may have had a request he wanted to make. We can do that now, and then we will see where we are.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I rise today to speak on the importance of Minutemen III intercontinental ballistic missiles, known as ICBMs, and an amendment I intend to offer. The ICBM is just one leg of our nuclear triad. The nuclear triad spans sea, air, and land. It relies on mobile bombers, hard-to-detect ballistic missile submarines, and ICBMs. They all work together to complicate and deter any attempt at a successful first strike on our country. Like a stool, if you shorten just one leg too much, the stool will become unstable.

Our nuclear triad is not just a weapons system, it is a deterrent. The further we weaken our nuclear forces, the less of a deterrent our triad will become.

Those folks who believe in nuclear zero and arms control seek a world without nuclear weapons at any expense—in my opinion, never at the expense of our national security. The fact is, for over 50 years our ICBM force has deterred a nuclear attack against the United States and our allies.

Some arms control supporters claim our ICBMs are on ''hair-trigger alert.'' They believe an ICBM can be launched by simply pushing a button. This misleading claim that an unauthorized launch can destroy the world in a matter of minutes could not be further from the truth.

GEN Kevin Chilton, the outgoing commander of STRATCOM, once described our nuclear posture as:

> The weapon is in the holster . . . the holster has two combination locks on it, it takes two people to open those locks, and they can't do it without authenticated orders from the President of the United States.

The Minuteman III ICBM force is the most stabilizing leg of the nuclear triad.

ICBMs are strategically located and broadly dispersed in order to prevent them from successfully being attacked. The ICBMs protect the survivability of other legs of the triad as a deterrent. They offer an umbrella of protection to our most-valued allies. ICBMs also represent the most cost-effective delivery systems the United States processes. Unlike a bomber, ICBMs ensure a second attack capability.

As required by section 1251 of the 2010 National Defense Authorization Act, earlier this year, the administration submitted its force structure plan. The President's 1251 force structure plan provides up to 420 ICBMs, 14 submarines carrying up to 240 submarine-launched ballistic missiles or SLBMs, and up to 60 nuclear-capable heavy bombers.

We are being asked to ratify this treaty without knowing what our force structure will actually be. We are being told: Pass the treaty, and then we will tell you what the force structure will actually look like.

The 2001 Nuclear Posture Review laid out our force structure in plain view, while the 2010 Nuclear Posture Review is silent on the force structure.

This report also laid out the administration's plan to modernize and maintain our nuclear delivery vehicles.

With respect to the next generation of ICBMs, the update states:

> While a decision on an ICBM follow-on is not needed for several years, preparatory analysis is needed and is in fact now underway. This work will consider a range of deployment options, with the objective of defining a cost-effective approach for an ICBM follow-on that supports continued reductions in U.S. nuclear weapons while promoting stable deterrence.

The amendment I plan to offer has no impact on the treaty. It simply requires the President to certify that further reductions in our land-based strategic nuclear deterrent will not be considered when reviewing the options for a follow-on ICBM. This is something I have worked on with Senator CONRAD. He has a second-degree amendment to mine, and it is something we both support.

LTG Frank Klotz, the new commander of Global Strike Command, was quoted last year at the Air Force Air and Space Conference and Technology Exposition here in Washington, DC, as saying:

> Continuously on alert and deployed in 450 widely dispersed locations, the size and characteristics of the overall Minuteman III force presents any potential adversary with an almost insurmountable challenge should he contemplate attacking the United States. Because he cannot disarm the ICBM force without nearly exhausting his own forces in the process, and at the same time, leaving himself vulnerable to our sea-launched ballistic missiles and bombers, he has no incentive to strike in the first place. In this case, numbers do matter . . . and the ICBM thus contributes immeasurably to both deterrence and stability in a crisis.

The force structure of our nuclear triad is critical to maintaining an effective deterrent.

In 2008, Secretary Gates coauthored a white paper titled ''National Security and Nuclear Weapons in the 21st Century.'' This paper argued for a strong nuclear deterrent. The forward stated:

> We believe the logic presented here provides a sound basis on which this and future administrations can consider further adjustments to U.S. nuclear weapons policy, strategy, and force structure.

The white paper by Secretary Gates recommended a U.S. strategic nuclear force baseline that includes 450 Minuteman III ICBMs, 14 Ohio class submarines, and 76 bombers, 20 B–2 and 26

B–52 bombers, for a total of 862. The administration cannot explain how the threat environment has changed since the 2008 recommendation to maintain 862 delivery vehicles. They cannot explain what has changed to allow our nuclear deterrent to be reduced to 700 delivery vehicles.

It sounds to me as if this administration has been a little too eager in negotiating the treaty.

James Woolsey, in a recent Wall Street Journal article, described his experiences negotiating with the Russians. He said:

> The Soviets taught me that, when dealing with Russian counterparts, don't appear eager—friendly, yes, eager, never.

I think Mr. Woolsey would know; he was involved in the SALT I treaty in 1970 and many more arms control agreements with the Russians before he took over as the Director of Central Intelligence.

I ask unanimous consent to call up amendment No. 4880, a Barrasso-Enzi amendment, and then a second-degree by Senator CONRAD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. KERRY. Mr. President, as the Senator knows, we had a discussion about this, and I am constrained to object. I think he understands why. I welcome further debate if he would like, but I must object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BARRASSO. Thank you, Mr. President.

I yield the floor.

Mr. KERRY. Mr. President, I thank the Senator for the issue, as it is important. I understand its importance to the part of the country where those particular weapons are housed today. I am confident—and I know this—that the administration, because we have talked about it, has a plan that I think will meet with the consent and approval of the Senators' concern, but they need to go through the further evaluation and analysis of all of these decisions. Decisions have not yet been made, and it would be inappropriate at this time to constrain the latitude they need in order to be able to make those judgments. It is an important issue, but I think it is inappropriate for us to constrain them and particularly to do so in the context of the treaty itself.

Mr. President, we are working with our friends on the other side of the aisle to really try to get the final agreement as to how we are going to proceed. I believe it is going to be possible for us to work out the issues with Senator KYL and his amendment. So I hope we will not need any other votes other than the final vote on the treaty. That is our hope at this point. We will try to work through that over the course of the next few minutes.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. KERRY. Mr. President, knowing that we are getting to that moment at which point we are going to have an understanding of how we are proceeding forward and knowing that because of the 30-hour limitation, no matter what, we are getting toward the end, rather than chew up time for Senators later on, I thought I would take a moment now to say thank you to a few folks involved in this process. Before I do that, I also will reserve some time, as I will for Senator KYL and Senator LUGAR—and this, I assume, will be part of the agreement we are going to reach—to speak to the substance of the treaty at the appropriate time before we vote.

It has been an incredible team effort by an awful lot of people over the course of a lot of months. I wish to thank all of them for their involvement.

Senator LUGAR has been an unbelievable partner and a visionary with respect to these issues but, importantly, just a very steady, wise, and thoughtful collaborator in the effort to get the treaty to where we are today. It hasn't always been easy for him because there were times when he was a lonely voice with respect to those who were prepared to support this treaty. I wish to pay tribute to his statesmanship and his personal courage in steadily hanging in there with us.

I thank President Obama for his determination to make certain that this was the priority that he felt it was and that I think it is. He and so many folks in the administration have been helpful in this effort.

I will reserve some comments later more specifically, but I think the Vice President has been, at the President's request, an invaluable collaborator in this effort. He has talked to any number of colleagues, made any number of phone calls, been involved in any number of strategic choices here, and I am deeply grateful to him for taking his prior stewardship of this committee and being as thoughtful as he has been in the way he has approached this particular treaty.

Secretary Clinton likewise has dedicated herself and her staff to the effort to work through unbelievable numbers of questions, to make themselves available and to make herself available to talk with colleagues.

This has been a tremendous team effort with Secretary Gates, Secretary Chu, Admiral Mullen, General Chilton, LTG O'Reilly, and others. None of these things can happen if there isn't a team pulling together to answer questions and deal with the issues colleagues have.

At the State Department, Assistant Secretary Rose Gottemoeller has been unbelievably available, patient, thoughtful, and very detailed in her efforts to answer the questions of Senators and be precise about this negotiation. She led a tremendous team and worked very closely with Assistant Secretary of State for Legislative Affairs Rich Verma, who likewise helped coordinate and pull people together to deal with the issues we faced. Dave Turk, Terri Lodge, Paul Dean, and Marcie Ries have all been key members of that team, and we thank them for their amazing commitment of hours and the dedication they have shown to the effort to try to get us to where we are today, to this final vote.

Likewise, at the Pentagon, Deputy Under Secretary of Defense Jim Miller; the chief Defense Department representative on the negotiating team, Ted Warner; Marcell Lettre; Eric Pierce; Michael Elliott; and Chris Comeau—all of them, together with the State Department, provided the kind of linkage we needed and the consistent effort to answer questions and deal with their principals in order to get the information necessary for Senators to be able to make good judgments.

At the Energy Department, Tom D'Agostino and Kurt Siemon were also constantly available.

At the White House, I thank Pete Rouse, chief of staff, and Tom Donilon, the National Security Adviser, and I especially thank Brian McKeon, Vice President BIDEN's National Security Deputy, who has just done an extraordinary job of helping to provide the bridge between various agencies, as well as strategy, and has been consistently available to us. Louisa Terrell and Jon Wolfsthal have been part of that team. We are very grateful to all of them.

On the Foreign Relations Committee, it has been a great team effort with Senator LUGAR. The chief of staff of the Foreign Relations Committee, Frank Lowenstein, has worked countless hours on this treaty, together with Doug Frantz, Ed Levine, and Anthony Wier. These two gentlemen, Ed Levine and Anthony Wier, are unbelievable veterans of this kind of effort. They worked with Senator BIDEN for years. I am delighted they were willing to stay over and continue with the committee.

In the case of Ed Levine, he lost his dad during the course of this debate a few days ago and, nevertheless, hung in there with us and stayed right at it. The wisdom and experience he has brought to this task is invaluable, together with his collaborator Anthony Wier. Peter Scoblic, Andrew Keller, Jason Bruder, and Jen Berlin have been enormous contributors to this effort. I am grateful to all of them.

On the Republican side, Ken Myers—Ken brings so much experience and wisdom to this task. He has been with Senator LUGAR for a long time. What he has done to help us bridge the divide is immeasurable. Tom Moore and Mike Mattler worked with him.

Our staff in S–116, which has sort of been headquarters for us, Meg Murphy

and Matt Dixon have put up with strange hours and interruptions. We are eternally grateful to them.

Obviously, nothing happens in the Senate without the floor staff, the folks who put in these long hours. Jessica Lewis and Tommy Ross on Senator REID's staff have been invaluable to us. Lula Davis, Tim Mitchell, and Stacy Rich are invaluable on every issue here. The Senate would not work without them. We are deeply grateful to all these people.

I am glad the schedule allows us a moment where we can actually thank them all publicly. They do a service for our country that many people in the country never have a sense of. They do not see it. Government gets a lot of criticism, but let me tell you, these folks work as hard as any people I know anywhere, and a lot of things could not happen without them.

As I said, I wish to speak to the substance of the treaty before we vote, but for the moment I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, I wish to seize the moment, along with my distinguished chairman, because we are indebted to all the great people he has enumerated, to embellish his congratulations by mentioning that we are grateful, first of all, that the President invited Senator KERRY and me to be part of conversations on two occasions during the negotiation of the treaty. That, we thought, was very valuable and gave us some insight as to where the negotiators were headed and to offer what counsel we could about those issues we felt were important and those issues we were certain all Senators would feel were important as we sought ratification of the New START treaty.

Likewise, those conversations were carried on rigorously by the Vice President, our former chairman of the Senate Foreign Relations Committee, JOE BIDEN, who has worked with Senator KERRY and with me over the course of three decades or so of active participation and several arms control treaties. Vice President BIDEN has a very good idea of how the ratification process works and what counsel he can give, not only to us but to all Members and colleagues with whom he has worked so well in the past.

I am especially pleased, likewise, that Rose Gottemoeller, who headed the negotiation team, has been very available to Senators throughout the time of the negotiation abroad and during her trips to Washington and certainly throughout the hearings the Foreign Relations Committee held.

We are indebted, in fact, to all the witnesses who came before our committee in the 16 hearings that have often been enumerated in conversation on the floor. The witnesses were generous with their time, very forthcoming with their testimony and followup questions the Senators had. Because of that testimony, there is a very solid block of support for the treaty based upon these distinguished Americans who have had enormous experience, not only with arms control treaties but the actual implementation of these with the former Soviet Union—and now with Russia—in the past.

I am indebted, as JOHN KERRY is, to Ken Myers, Tom Moore and Mike Mattler of our staff and to Marik String and Corey Gill. I cite these five members of a very devoted staff who have devoted extraordinary talents and time and devotion to the treaty formulation and to the counsel they have given me, for which I am very much indebted.

Finally, I thank all the members of the Senate Foreign Relations Committee for their diligence and attendance at hearings and their questioning of each other, as well as the witnesses and the discussions we have had both in informal and formal sessions. We have had a difference of opinions. Our views were not unanimous in the 14-to-4 vote by which the Senate Foreign Relations Committee sent this New START treaty to the floor. But I respect deeply each of those views, and I respect the ways in which members of the committee have participated during this very important debate.

Mr. President, I yield the floor.

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

Mr. DEMINT. Mr. President, I say Merry Christmas to all my colleagues. We never expected to find ourselves here this time of year, but obviously there are very important issues to discuss.

On November 2, Americans made a pretty historic statement. After 2 years of many things being crammed down their throat that they did not like, they made historic changes in the House and the Senate. I think all expectations were that the new Congress would come in and begin to change things. Very few Americans—and I think very few of us in the Senate—actually thought we would use the time between that election and the swearing in of the new Members of Congress to continue to cram through more things America does not want.

Most businesses have learned that if they ever have to make the difficult decision of firing someone, it is very important that person be sent home right away because getting fired usually makes people angry and less loyal to the company that fired them. Instead of dealing with all the mischief that might occur, the fired employee is sent home right away.

We are a fired Congress in a lot of ways. America has sent us home. Many people who set the policies for the last 2 years have been unelected. Some have retired. But the decisions that are being made now in this Congress are decisions being made by people who have either retired or who have been turned out of office. So much is being pushed through because of the fear that if we actually let the newly elected Congressmen and Senators be sworn in before we take up these important issues that they will actually reflect the opinions of the American people and stop what we are doing.

We have decided to use this lameduck session to push many items through. It is a very unaccountable Congress. We tried to push through a huge omnibus spending bill with thousands of earmarks, exactly the thing about which Americans have said no more. Thankfully, Republicans stood together to stop that bill.

We needed to extend our current tax rates, but even in order to get a temporary extension, we in the minority had to agree to more deficit spending. In this lameduck session, we have pushed our political correctness on to our military by repealing don't ask, don't tell without the proper studies, without the proper phase-in time, and no rational approach to this. It was just check the box of another political payback.

In another check the box of amnesty, the DREAM Act, which was brought up and fortunately Republicans stood against something that again avoided the big issue of border security. This Congress has continuously rejected the idea of carrying through on our own law to complete the double-layer fencing we put into law to protect the southern border. Thousands of people are being killed on the border because we refuse to take action. Yet we are continuing to try to expand the problem with more amnesty and citizenship and public benefits to those who came here illegally.

The threat is now to keep us here until Christmas or beyond to pass what we are calling a 9/11 bill. Every Member of this Chamber—Republicans and Democrats—wants to do what is right for the first responders who may have been injured after 9/11. But we owe it to the American people to be accountable to how we spend money. To put a bill on the floor, in an unaccountable lameduck Congress, that has not been through hearings, when we do not know how the millions of dollars have been used that we have already given to the same cause certainly is worth a few weeks of committee hearings and understanding exactly how to spend taxpayer money effectively in a way we know will help the people who have been injured.

But, no, we have to push that through in a fired, unaccountable Congress. Of course, now the big issue of the day is somehow, in a time of economic recession and so many people being out of work, that we want to use this lameduck, unaccountable Congress to push through a major arms control treaty with Russia. Somehow that ended up on the top of our priority list, using Christmas as a backstop to try to force us to pass this bill.

It is pretty interesting how this has progressed. The treaty had no chance of ratification until the President

agreed to billions of dollars in modernization of our nuclear weapons.

We have to stop and ask ourselves: Why should we have to have backroom trading going on to modernize our nuclear weapons? That should be something the President is committed to, that we are committed to. We should not have to trade for modernization. But now we appear to have enough Republicans who have decided this is a good treaty to ratify a few days before Christmas in a fired, unaccountable Congress, with the need to push it through before America's representatives actually get here the first of January. The sense here is if we let the people America just elected come, that maybe the treaty will need some modifications.

There have been many questions expressed about the treaty. I think some of them are very legitimate. Clearly, missile defense is a problem. The Russians have expressed that Americans cannot develop any kind of comprehensive missile defense system under this treaty. We say: No, no. We can develop a limited missile defense system. We are going through all kinds of convoluted language to put things in nonbinding areas of this agreement, to say we are committed or we are going to communicate to the Russians that we are committed, but we even were unwilling to put it in the preamble that there is no linkage between the development of our missile defense system and this treaty agreement. Clearly, there is a linkage. The Russians believe there is a linkage.

All the correspondence from the President says ''limited missile defense system.'' We obviously have agreed to it. We never could get the negotiating records to confirm that, but everything suggests there is an implicit and explicit agreement that America will not attempt to develop a missile defense system capable of defending against Russian missiles. Perhaps capable of defending against a rogue missile launch or an accidental missile launch, but the language in this treaty, communications from the White House, the hearings all say we will only have a limited missile defense system.

There should be no mistake, there should be no confusion, the agreement to this treaty is an agreement for America not to develop a comprehensive missile defense system. If that is satisfactory, then let's ratify. Clearly, there are holes in the verification process of this treaty. The growing and biggest threat is tactical nuclear weapons. Shorter range missiles, ground-based, sub-based are not even included in this agreement. The Russians are fine with this. They were going down to the same long-range missile count we require in this treaty anyway. They give up nothing. We don't restrict any of their tactical developments. The verification is less stringent than in START I, with fewer inspections, and the ability to actually look at things such as telemetry are obviously omitted here.

We can't ratify this treaty with any pretense that America is going to be any safer. In fact, I think the biggest problem with this treaty is the whole presumption it is built on—that America should be at parity with Russia. We have talked about it here in this Chamber, that we do not have the same role as Russia in this world. Russia is a protector of none and a threat to many. America is the protector of many and a threat to none. Over 30 countries live in peace under our nuclear umbrella, but we are saying we are going to reduce it, with a lot of questions as to whether we are going to modernize it, and we are telling our allies that tactical nuclear weapons are not going to be restricted in any way, which is probably their biggest concern because of their contiguous location to Russia.

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

Mr. DEMINT. Yes.

Mr. INHOFE. When you talk about the missile defense aspect of this, I wonder if it has occurred to a lot of people that maybe this treaty is with the wrong people. We know right now that Iran is going to have the capability—and this is not even classified—of a nuclear weapon, a delivery system, by 2015. I think one of the worst things for America—and this President did it—was to take down the sites we were planning in Poland that would give us this protection.

My point I want to make, and then to ask the Senator about, is that in the event this is ratified and we are restricted in any way from developing further our missile defense system, doesn't that put us directly in an impaired position in terms of North Korea, maybe Syria, but definitely Iran, that has already indicated and already has the capability of reaching us by that time?

It is interesting that the site would have been in effect to knock down a missile coming from Iran by 2015, the same year our intelligence community tells us they will have that capability. Isn't that the threat we are concerned about, more than Russia?

Mr. DEMINT. I want to thank the Senator from Oklahoma for bringing out another very important point. We are laser focused on this treaty with Russia, which obviously restricts our ability to develop missile defense. Yet we all seem to acknowledge the greatest growing threat in this world is from Iran and North Korea and other rogue nations that can develop nuclear technology.

It is almost like watching a magician at play here, of getting us to look at one hand while other things are going on. We are not paying attention to the Nation's business here, and I am afraid this is just another ''check the box''—a foreign policy victory for the administration. If it did not have so many questions related to it, that would be fine, but not to jam this through with a fired, unaccountable Congress, and rushing it through before the representatives America just elected have been sworn in, and doing it as part of a list of legislation—a long list over the last 2 years—that America does not want.

I want good relations with Russia and countries all over the world, but I am afraid this is part of a continued effort of accommodation and appeasement; that if we show weakness, other countries will accommodate us. We need Russia to cooperate—with Russia and North Korea. Folks, I don't think this is the way to get it, and I don't think we are going to gain respect for our process of trying to do this under the cover of a distraction of a major holiday with a lameduck, unaccountable Congress.

In the way this is being presented, it is a mockery of the debate process here in the Senate. We are not amending a treaty. We were told at the outset it is ''take it or leave it.'' The Russians are negotiating, clearly, from a position of strength, because they said, here is the treaty, take it or leave it; any changes and the treaty is dead. Is that the way America needs to deal with other countries? Is that the way the Senate should debate a major arms control agreement, where the majority party is saying, you can go talk about it if you want, but we are going to kill every amendment, even though we say we agree with a lot of them. There will be no changes in this.

We are trying to stick some things in here in the areas of the treaty that have no binding aspect and say we have covered it, but we are making a mockery of the whole debate and ratification processes with an unaccountable, fired Congress, under the cover of Christmas, and a debate where we have been told ''take it or leave it.'' This is not what the Senate is about, this is not what Congress is supposed to be about, and certainly we should not be passing major legislation at this time of year with this Congress.

Mr. President, I appreciate the opportunity to speak. I still hope my colleagues will come to their senses and show the American people that we are going to act in a responsible way that respects what they told us on November 2; that this Congress needs to go, a new one needs to come in, and we need to stop cramming things down their throats they do not want.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET of Colorado). The Senator from Massachusetts.

Mr. KERRY. Mr. President, we are now in the final throes of getting together a unanimous consent request. The leadership has asked us to proceed forward on the amendment. Senator KYL has asked me—I think he wanted to be here when we do his amendment on modernization, which we are now prepared to accept, with further modification. So I will wait for Senator KYL in order to do that.

In the meantime, I understand we also have an agreement on the missile

defense amendment, and that amendment is now going to be cosponsored by Senator LIEBERMAN and Senator MCCAIN. So if the Senator from Tennessee wants to talk about that amendment, we are prepared to accept it. I think we should have the discussion of that amendment at this point in time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to at this moment ask unanimous consent to change the name of the amendment to MCCAIN-LIEBERMAN-CORKER.

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

Mr. CORKER. I would also ask unanimous consent to add Senators JOHANNS, LEVIN, and BAYH as cosponsors.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. No objection.

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

AMENDMENT NO. 4904, AS FURTHER MODIFIED

Mr. CORKER. Mr. President, I would send to the desk the amendment, as modified, and as I understand it, this has been accepted by both sides.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing no objection, the amendment is modified.

The amendment, as further modified, is as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DEFENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and at the time of the exchange of instruments of ratification shall communicate to the Russian Federation, that it is the policy of the United States to continue development and deployment of United States missile defense systems to defend against missile threats from nations such as North Korea and Iran, including qualitative and quantitative improvements to such systems. Such systems include all phases of the Phased Adaptive Approach to missile defenses in Europe, the modernization of the Ground-based Midcourse Defense System, and the continued development of the Two-stage Ground-based Interceptor as a technological and strategic hedge. The United States believes that these systems do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

At the end of subsection (b)(1)(C), strike ''United States.'' and insert the following: ''United States; and

(D) the preamble of the New START Treaty does not impose a legal obligation on the parties.

Mr. KERRY. Mr. President, I would ask, before we proceed on that—because Senator KYL is now here, so we could quickly accept his amendment and dispose of that—I ask unanimous consent that we call up Kyl amendment No. 4892, as modified—as additionally modified.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

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

Mr. KERRY. Objection.

The PRESIDING OFFICER. Objection is heard.

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

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

AMENDMENT NO. 4892, AS FURTHER MODIFIED

Mr. KERRY. Mr. President, I believe at the desk now is the Kyl amendment, as modified.

I am sorry about the confusion. Mr. President, I ask unanimous consent that we be able to immediately proceed to the Kyl amendment. We will come right back to the Corker amendment, but I ask unanimous consent to proceed to the Kyl amendment, as modified, with the modification that has been submitted at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4892), as further modified, is as follows:

At the end of subsection (a), add the following:

(11) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate to the extent possible the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request full funding, including on a multi-year basis as appropriate, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

Mr. KERRY. Mr. President, I believe Senator KYL wishes to say something.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will comment more when I make my concluding comments, but what we have just done is to agree to provide a mechanism for the President to certify a way forward to fund the two large facilities that are part of the nuclear weapons complex in a way that we hope will provide for the most efficient way to build these facilities and to get them constructed as rapidly as possible.

The result of this is that, potentially, we could save hundreds of millions of dollars and construct the facilities at an earlier date than was originally intended. But to be clear, nothing in this amendment reduces the President's decisionmaking or flexibility. It remains his decision as to how the funding is requested and when it is requested.

Mr. KERRY. Mr. President, I agree with the comments of the Senator. It does leave the President that important ability, but it also puts the question of whether this is a way that is more efficient. It is something we should be looking at, and the President intends to look at it. We will accept this amendment.

Mr. President, I don't think there is further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4892), as further modified, was agreed to.

AMENDMENT NO. 4904

Mr. KERRY. Mr. President, I thank Senator KYL and the Chair, and now, Mr. President, I believe the Corker amendment is the pending business.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to again say that we have asked by unanimous consent to change this to be the MCCAIN-LIEBERMAN-CORKER amendment, and we have also added Senators ALEXANDER, BROWN of Massachusetts, MURKOWSKI, JOHANNS, LEVIN, and BAYH as cosponsors.

As a matter of tremendous respect and courtesy, I think it would be best for Senator MCCAIN to be the first speaker on this amendment that he was very involved in developing.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on behalf of myself, Senators LIEBERMAN, and Senator CORKER, I have an amendment at the desk and ask for its immediate consideration.

Mr. KERRY. Mr. President, reserving—I believe the Senator is referring to the amendment that is pending?

Mr. CORKER. That is correct.

Mr. KERRY. It is the pending amendment.

Mr. MCCAIN. First of all, it is probably not too relevant, but I would like to say that this should have been the Lieberman-Corker-McCain or Corker-Lieberman-McCain amendment because of the distribution of effort that has been made on this amendment. Be that as it may, I think this amendment makes some improvement that will be very helpful.

It has two parts. The first requires the President to certify that we do not recognize Russia's argument that the treaty can only be effective and viable only in conditions where the United States is not building up its missile defenses. The statement would also be transmitted to the Russians when the instruments of ratification are exchanged. Second, the amendment would include in the instrument an understanding that the preamble is not legally binding.

I think this is a helpful amendment, and I appreciate that it could be included by the Senator from Massachusetts, but ultimately it does not address my concerns that the Russians believe the treaty could be used to limit our missile defense. We should have removed this clause from the preamble.

The message sent by the first part of this amendment is positive, but it is not conveyed to the Duma. When we look at the fact—I understand why the proponents of this treaty would not want to transmit this aspect of the treaty to the Duma for fear of some backlash and perhaps problems in the Russian Duma, although it is not a body that is renowned for its independence, to say the least. The fact is, it will not be transmitted to the Duma. The fact is, if the Russians and the United States agreed to a treaty and a part of that treaty was not transmitted to the Senate, I think that would be something to which most of us would take strong exception.

I thank Senator CORKER. He has worked extremely hard on this issue. JOE LIEBERMAN has worked extremely hard, trying to reach a point, obviously, that they could agree to support this treaty. Whether they eventually do or not is something that I neither know nor would predict, but I do think it shows some improvement. I still have various concerns, as I have had from the beginning, on the issue of defensive missile systems, how it would play, whether it is actually part of the treaty and, if so, how enforceable.

What complicates this more than anything else is the continued statements, public statements on American television a short time ago—Vladimir Putin saying that if we move forward with improving our missile defenses, they would take ''appropriate actions.'' Their Foreign Minister has made repeated statements—not last year but last month—saying one thing and publicly declaring it while on the other hand we are assuming this will prevent them from doing what they say they will do. That is a contradiction.

I understand how solemn treaties are, and I understand how binding treaties are. I also understand that when the leader of a nation says on ''Larry King Live''—God bless you, Larry, for everything you did for us—that they will have to take ''appropriate actions'' if we improve quantitatively or qualitatively our strategic missile defense systems, then obviously you have to give some credence to that, when public statements are made. Obviously, in the view of Senator KERRY, who has done a masterful job in shepherding this treaty through the Senate in the last several days, that is not that meaningful. So we just have a fundamental disagreement of opinion. But I can say this: If we negotiated a treaty and made certain agreements and the President of the United States made public statements on national or international television contradicting that, then I think it would give the party we are in negotiations with significant pause.

Not one statement that I have been able to find has a Russian leader—either Foreign Minister, Defense Minister, or Prime Minister or President—saying they will adhere to the provisions that are in this amendment. That is a fundamental contradiction that I am sorry cannot be resolved.

I know what the votes are going to be on this treaty. Again, I congratulate Senator KERRY for the incredible job he has done and, frankly, his great willingness to talk with me and negotiate with me and have dialog and work toward a common goal. He has done that in good faith, and I am grateful for the opportunity he has given me to play a role, including agreeing to this amendment which I think will improve the treaty.

I wish to say that I know how difficult this has been for Senator CORKER and other Members on this side.

I thank Senator LIEBERMAN for the continued hard work he does on this issue.

I urge my colleagues to support this amendment. I think it is very helpful.

With that, I yield to my colleagues, cosponsors of the amendment, if that is agreeable to Senator KERRY.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, Senator CORKER and I had a vote—actually, Senator CORKER, Senator MCCAIN, and I had a vote on whose name should be first on this, and Senator CORKER and I won, 2 to 1. Senator MCCAIN's name is first because this is an amendment that attempts to deal in a unifying way with our concern that the Russians misunderstand the impact of this treaty or the impact of our development of missile defenses on this treaty and that it is important for us to speak out in unity, in a unified and clear voice, to the Russians, and no one has made that point more clearly as the treaty has been considered than Senator MCCAIN. In fact, he offered an amendment earlier in our deliberations on the treaty which I supported, which did not pass, which would have removed the section of the preamble that has obviously been put in by the Russians in the negotiations which is confusing at best and downright mischievous at worst.

This is the section that says:

> Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

That is the end of the quote from the preamble. It strikes me as I read it that it will be a topic of consideration in law schools and classes on international law. The first question is, What did it mean? But I think the Russians had a particular intent in putting it in there, and they know what they wanted it to mean.

What is troubling is that when the treaty was signed earlier in the year in Prague, the Russian Federation issued a statement that basically made these same points—that the treaty will be effective and viable only in conditions where there is no qualitative or quantitative buildup in the missile defense system capabilities of the United States of America.

But these are two separate categories. This treaty, the START treaty, is all about reducing the offensive capabilities, nuclear and delivery capabilities of both great powers. We are building a missile defense system. It started out as a very controversial matter. It started out a long time ago—President Reagan, really, initially, and then serious consideration in the 1990s when a lot of people argued against it and said it was a waste of money and it would never work technologically, that you couldn't create a bullet that would hit a bullet. Yet that is exactly what we have done. Thank God that we invested the money and that our scientists and military leaders have brought it as far it is because one of the great threats that will face the people of the United States, our national security, will come from missiles carrying weapons of mass destruction fired particularly by rogue nations such as Iran and North Korea. It would be irresponsible of us not to have developed a capacity to defend against those kinds of missile attacks. We have done that.

The Russians keep wanting to link that to this treaty. It is not linked to the treaty. Therefore, I regretted that section was in the preamble I read. The United States responded through the State Department to that statement by the Russian Government when they signed the treaty. But it is really important for us, at the same time the instruments of ratification are conveyed to the Russian Government, to make a clear and direct statement of our understanding of the total nonrelationship between the development of our missile defense capability and the START treaty.

That is what this amendment does. I am privileged to cosponsor it with Senator MCCAIN, Senator CORKER, and a number of other Members of both parties. Basically, it says that before the New START treaty could enter into force, the President shall certify to the Senate—basically, this is certifying what the President said in a letter sent to Senator REID a few days ago—and at the time of the exchange of instruments of ratification shall communicate directly to the Russian Federation that, No. 1, we are going to continue development and deployment of a missile defense system to defend against missile threats from nations such as—and I would add ''not limited to''—North Korea and Iran.

No. 2, what do we mean by qualitative and quantitative improvement

of such systems that we are going to be continuing? This is very important. We define that here to include all phases of the phased adaptive approach to missile defenses in Europe embraced now by our NATO allies; second, the modernization of the ground-based midcourse defense system; and third, the continued development of the two-stage ground-based interceptor as a technological and strategic hedge.

We are being as direct as we can be here to the Russians. Some of my colleagues have said—and the record, unfortunately, shows it—that their record for complying with treaties is not a good one. We don't want to enter into this one with any misunderstandings or covering up the truth. We are saying here loudly and clearly that the United States is going to continue to develop all of these different forms of missile defense to protect our security and that has nothing to do with this START treaty.

I think the third section here is very important. We say:

The U.S. believes that these systems [missile defense systems] do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the U.S. cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the [START] Treaty—

Which is the section that gives nations the right to withdraw under extraordinary circumstances—nonetheless, if we adopt this, when we adopt it, this amendment, we are saying here:

The United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the treaty.

We are trying to manage our relationship with the Russian Federation in a way that is conducive to the security of our country and the security of the world.

We disagree with the Russians on an awful lot of things, including human rights and values and freedom of the press—which the current government in Russia has so aggressively suppressed. So we want to be honest with them and direct with them and not enter into this important treaty with any illusions. I believe we have said that clearly. If it passes, it will be presented to the Russian Government directly.

I am very pleased we have a broad, bipartisan group supporting this. It is a unified way to conclude our deliberations here before we go to vote on ratification, and I urge my colleagues to support the amendment.

I thank the Chair and yield the floor to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent to add Senator BEGICH as a cosponsor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CORKER. Mr. President, I am thrilled to join with Senator MCCAIN and Senator LIEBERMAN in an amendment dealing with missile defense. This is a subject that has been discussed ever since this treaty was first presented.

I cannot think of a better way to end this debate. I thank Senator KERRY for having the patience of Job, having worked through this. Somebody mentioned deals and where they have been taking place. They have been taking place on the Senate floor. We have been working on this for a long time. We have gone through intelligence briefings. We have gone through incredible numbers of hearings. I think this has been done exactly in the right way.

I thank the Senator for his leadership. I thank Senator LUGAR for his leadership on nuclear armaments in general. The Senator has been pursuing that for years.

So we have before us an amendment on missile defense. Again, it has been discussed in great detail. This says three things. Senator LIEBERMAN certainly talked about much of the detail, but the President the other day sent us a letter declaring, in very strident ways, his commitment to both the phased-adaptive approach to missile defense, which will take place in Europe, and our ground-based interceptors. He has said that absolutely in strident terms.

What this amendment does is certifies to Congress—he certifies to Congress—that he is going to continue those efforts. He will continue those efforts on phased-adaptive approach and ground-based interceptors.

Second, we have been concerned about what Russia thinks as it relates to this treaty. When we exchange the instruments of ratification, when we exchange the documents when ratifying this treaty, they are going to be told that we, in fact, are continuing to pursue our missile defenses in every way possible, and that in no way affects our relationship from that standpoint as it relates to this treaty. I think that is incredibly strong.

Then, third, we have talked about this preamble, and every one of us knows the preamble is nonbinding. But as an understanding of this treaty going forward, we are telling the Russians that the preamble absolutely is not binding and that we are pursuing these missile defense applications that have been discussed. I am proud to join with Senator MCCAIN, with Senator LIEBERMAN, two people who care as deeply about our national security as anybody in the United States, certainly in this Senate. I am proud to have the other Members of the Senate who have joined in.

Let me just say in closing, I think it is absolutely appropriate that the last two amendments we address are the Kyl amendment which deals with modernization—the President has made incredible investments in modernization that have come about through this entire process, a commitment to ensure that the nuclear arsenal we have is one that operates, that is reliable, that is safe.

I think people know we have 1,550 deployed warheads—after this treaty goes into effect, over a long period of time, we reduce to that number, but that we have roughly 3,500 other warheads that, again, will continue to be modernized and made available, if necessary.

So I want to say that in accepting the Kyl amendment and all of the things that have come with it—the letter from the appropriators and accepting this missile defense amendment—if that ends up being the case, and I hope it will be by unanimous consent shortly, I think what we have done throughout this entire process has strengthened our country's national security.

I can say: Look, this is called the New START, but I could call this the Missile Defense and Nuclear Modernization Act of 2010 because all of these things have come into play to make our country safer. I want to thank the chairman. I want to thank the administration for walking through, over the last 6 months, and helping us cross t's and dot i's. I think this treaty is good for our country. I think this treaty enhances our national security. I thank the chairman for the way he has worked with us to get it into that position, certainly Senators MCCAIN and LIEBERMAN for helping take the lead on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 4922 TO AMENDMENT NO. 4904

Mr. KIRK. Mr. President, I have a second-degree amendment at the desk, No. 4922.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. KIRK] proposes an amendment numbered 4922 to Amendment No. 4904.

Mr. KIRK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide an additional understanding regarding the December 18, 2010, letter from President Obama to the Senate regarding missile defense)

On page 2, after line 19, add the following:

(2) MISSILE DEFENSE.—It is the understanding of the United States that the advice and consent of the Senate to the New START Treaty is subject to the understanding, which shall be transmitted to the Russian Federation at the time of the exchange of instruments of ratification, stated in the letter transmitted by President Barack Obama to the Majority Leader of the United States Senate on December 18, 2010, the text of which is as follows:

THE WHITE HOUSE,
Washington, December 18, 2010.

Hon. HARRY M. REID,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID: As the Senate considers the New START Treaty, I want to

share with you my views on the issue of missile defense, which has been the subject of much debate in the Senate's review of the Treaty.

Pursuant to the National Missile Defense Act of 1999 (Public Law 106–38), it has long been the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate. Thirty ground-based interceptors based at Fort Greely, Alaska, and Vandenberg Air Force Base, California, are now defending the nation. All United States missile defense programs—including all phases of the European Phased Adaptive Approach to missile defense (EPAA) and programs to defend United States deployed forces, allies, and partners against regional threats—are consistent with this policy.

The New START Treaty places no limitations on the development or deployment of our missile defense programs. As the NATO Summit meeting in Lisbon last month underscored, we are proceeding apace with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by the proliferation of ballistic missiles. The final phase of the system will also augment our current defenses against intercontinental ballistic missiles from Iran targeted against the United States.

All NATO allies agreed in Lisbon that the growing threat of missile proliferation, and our Article 5 commitment of collective defense, requires that the Alliance develop a territorial missile defense capability. The Alliance further agreed that the EPAA, which I announced in September 2009, will be a crucial contribution to this capability. Starting in 2011, we will begin deploying the first phase of the EPAA, to protect large parts of southern Europe from short- and medium-range ballistic missile threats. In subsequent phases, we will deploy longer-range and more effective land-based Standard Missile–3 (SM–3) interceptors in Romania and Poland to protect Europe against medium- and intermediate-range ballistic missiles. In the final phase, planned for the end of the decade, further upgrades of the SM–3 interceptor will provide an ascent-phase intercept capability to augment our defense of NATO European territory, as well as that of the United States, against future threats of ICBMs launched from Iran.

The Lisbon decisions represent an historic achievement, making clear that all NATO allies believe we need an effective territorial missile defense to defend against the threats we face now and in the future. The EPAA represents the right response. At Lisbon, the Alliance also invited the Russian Federation to cooperate on missile defense, which could lead to adding Russian capabilities to those deployed by NATO to enhance our common security against common threats. The Lisbon Summit thus demonstrated that the Alliance's missile defenses can be strengthened by improving NATO-Russian relations.

This comes even as we have made clear that the system we intend to pursue with Russia will not be a joint system, and it will not in any way limit United States' or NATO's missile defense capabilities. Effective cooperation with Russia could enhance the overall effectiveness and efficiency of our combined territorial missile defenses, and at the same time provide Russia with greater security. Irrespective of how cooperation with Russia develops, the Alliance alone bears responsibility for defending NATO's members, consistent with our Treaty obligations for collective defense. The EPAA and NATO's territorial missile defense capability will allow us to do that.

In signing the New START Treaty, the Russian Federation issued a statement that expressed its view that the extraordinary events referred to in Article XIV of the Treaty include a ''build-up in the missile defense capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear potential of the Russian Federation.'' Article XIV(3), as you know, gives each Party the right to withdraw from the Treaty if it believes its supreme interests are jeopardized.

The United States did not and does not agree with the Russian statement. We believe that the continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation, and have provided policy and technical explanations to Russia on why we believe that to be the case. Although the United States cannot circumscribe Russia's sovereign rights under Article XIV(3), we believe that the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty.

Regardless of Russia's actions in this regard, as long as I am President, and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and partners. My Administration plans to deploy all four phases of the EPAA. While advances of technology or future changes in the threat could modify the details or timing of the later phases of the EPAA—one reason this approach is called ''adaptive''—I will take every action available to me to support the deployment of all four phases.

Sincerely,

BARACK OBAMA.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, on the basis of rule XXII and the question of timely filing, I would object to this amendment being considered.

The PRESIDING OFFICER. The point of order is well taken. The amendment falls.

Mr. KIRK. Mr. President, am I allowed to be heard on the point of order?

The PRESIDING OFFICER. There is no debate on a point of order.

Mr. KIRK. Roger that.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I do not want the Senator to not have an opportunity to be able to speak to this. I think he should be able to. He certainly has that right in the context of his time. I will not speak very long at all.

I want to thank the Senator from Arizona, my long-time friend, for his very generous comments. I appreciate them personally. But also I thank him for his willingness, under some circumstances that I know were tough for him, in terms of how a lot of this played out. He nevertheless sat with me, worked through these issues, and obviously I wish we had been able to reach an agreement sometime earlier, but I am glad he is there now on this amendment. I am glad we are able to accept it.

I thank Senator CORKER who has been a straight dealer throughout all of this—no histrionics, no politics. I think he has really seen his responsibilities on the Foreign Relations Committee in the best way and has studied and thought and worked at and tried to find a way to solve a problem, not create a problem. So I thank him for that approach to this treaty.

I think this amendment, if I can say—I mean, I was here in the Senate. I remember debating the first proposal of President Reagan with respect to missile defense, which then was called the SDI, the Strategic Defense Initiative, and became what we called Star Wars back then. We have traveled a long distance since then. The world also has changed significantly since then.

We no longer live in that sort of bipolar East-West, Soviet-U.S.-dominated world. We are living in a multipolar, extraordinarily complicated and significantly changed world in the context of the threats we face. The threats we now face, particularly of a rogue state, or of the possibility of a terrorist group stealing or putting their hands on some loosely guarded materials and/or weapons, those are possibilities that are real. We need to deal with this different kind of threat.

I believe the President of the United States has been pursuing a plan, building on what previous administrations have done; that is, pursuing the right kind of approach to try to figure out: How do we make all of us safer? Our hope is that the Russians will understand this is not directed at them. This is directed at how we together can build a structure in which all of us can share in a way that forces the Irans and North Koreas and others to understand the futility, indeed the counterproductivity of the direction in which they are moving.

So I think this is a good amendment to embrace within the instrument of ratification what the President is doing anyway, what the administration has been committed to doing anyway. I personally do not think it was necessary—in order to achieve an appropriate understanding of where the administration is going—but to whatever degree it gives Senators the ability in the advice and consent process to believe that we are appropriately putting Russians on notice as to this course we are on, I think it reinforces what the President has already done and said. I do not think they should view it as something new or as an aberration from any course that we have been on. I certainly do not view it that way.

I am confident they will see that we can build on this treaty in a way that we share in the future strategies, analyses, perhaps even technologies in the long run that will make all of us safer

and ultimately provide all of us with the ability to deal with the realities of a nuclear world. Our goal is to make us safer, and we believe this helps us do that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I join with the sentiments just expressed by the chairman. I very much appreciate the statements made by Senator MCCAIN, Senator LIEBERMAN, and my colleague on the Foreign Relations Committee, Senator CORKER, who has worked diligently throughout the hearings, the markup, and this debate.

I ask unanimous consent to be added as a cosponsor to the amendment that they have offered, 4904, as modified.

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

The Senator from Alabama.

Mr. SESSIONS. Just briefly on the remarks about the missile defense, I have served as chairman of the Strategic Forces Subcommittee and ranking member and have been involved in it for quite a few years. I think the language affirms the continued development of the two-stage, ground-based interceptor. Then, I guess, I accept the language that says ''as a technological and strategic hedge.''

But I would just say to my colleagues, the reason we are at this point is because, during the negotiations with the Russians concerning the New START treaty, the administration, responding to Russian objections about missile defense—which were so unfounded and I could never fathom—the administration agreed, in September of last year, unilaterally, and to the utter surprise of Poland and the Czech Republic, to cancel the planned two-stage GBI that was to be deployed in 2016 in Poland.

It was a great embarrassment to our allies. They had been negotiating with us for many years on this project. They had stood firm for it, and the administration then promised this phase four SM–3 Block 2B. But it was not on the drawing board, not under development, and cannot be completed until 2020 if we as a Congress fund it over that decade. The President certainly will not be in office at that time. So I am uneasy about this whole matter of missile defense.

I think the administration made a colossal error in giving up on the planned two-stage strategic policy. But this language is better than no language. I thank my colleagues for moving forward with it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I know the Senator from North Dakota wants to speak on this a little bit. I thought we might, if he was willing—we could accept the amendment and then the Senator would have an opportunity to speak.

Mr. President, we are prepared to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4904), as further modified, was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we have an understanding—while it is not a unanimous consent request yet, we have an understanding with Senator KYL that is the last amendment. We are waiting for the agreed-upon language from both leaderships in order to arrive at a time for the vote. It is our understanding that other issues that were part of the equation of when that vote might take place have been resolved. So, as a result, I think Senators can anticipate that, hopefully, sometime soon that unanimous consent request will be propounded.

Until then, Senators are free to talk on the treaty and I look forward to their comments.

Can I say one word, Mr. President? I apologize.

Earlier when I was thanking folks, I meant to, and I neglected to because I jumped over to thank Under Secretary of State Ellen Tauscher.

As we all know, she was a Member of the House, spent a lot of time on separate issues. In fact, she chaired one of the subcommittees of the Armed Services Committee. She logged a lot of miles and worked her heart out to assist in the evolution of this treaty. She has, as we all know, been fighting cancer. She just recently had cancer surgery. We wish her well in her recovery and express our gratitude to her for her work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I thank the Senator from Massachusetts and Senators MCCAIN and LIEBERMAN.

There are probably still some folks making up their minds on this treaty. I think most people have debated this at length and discussed it at length off the floor.

Our side has raised a number of questions. We have tried to cross every t and dot every i. This has been done in a very methodical way. I thank the chairman for the way he has worked with us. I thank Senator LUGAR for his longstanding leadership in this regard. I thank the administration officials who have absolutely bent over backward to try to solve every problem that has come up. The administration has not only solved problems for people who might vote for the treaty, they have tried to solve problems for people who they know will not vote for the treaty. We have some Members on our side who I know are still making up their minds. I have been involved in this for a long time. I enjoyed this. I think this is an incredibly serious matter.

I have two daughters and a wife I love. National security is something that is important to all of us. None of us wants anything bad to happen to this country. But to my friends on this side of the aisle who still may have some questions, there is no way in the world we would have the commitments we have on nuclear modernization if it were not for the process of this treaty. Now with Senator KYL's amendment being accepted, we are even fast-tracking that. There is no way in the world the unilateral statements that are going to be presented to Russia are going to be made regarding missile defense would be occurring without this treaty being in place. I don't think there is a person in the world who has debated seriously whether 1,550 warheads being deployed in any way affects this country's national security.

To those of you who may still be wavering, I believe every issue that has been raised has been answered strongly and legitimately. We have put forth what our posture is on nuclear armaments more clearly than we have done in recent times. I hope people will come to the same conclusion, that this is good for the country.

I thank all those who have allowed me to be involved the way that I have. I urge support, whenever the vote occurs, for a treaty that I believe absolutely makes our country safer. With all these accommodations, at some point, it seems that the right thing to do is to say yes to yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, there has been a great deal of discussion about modernization this morning. I have listened to much of it and was not going to come to the floor, but I do want the record to show clearly what the numbers are on modernization. It is important to the future for us to understand what has been done and what is being done and what will be done.

I chair the Appropriations Subcommittee that funds nuclear weapons activities. I have spoken about this previously. It is very important going forward that we all understand what not only this administration but the previous administration has proposed with respect to modernization. I agree with my colleague from Kentucky. It is encouraging, at the end of this debate, that two bipartisan amendments represent the conclusion of this very important debate. We often debate things that are of lesser importance or of greater importance and sometimes don't always see the difference between the two. But this is one of those cases where if we ratify the START agreement today, when all is said and done, more will have been done than said. That is very unusual in a political body.

When I say ''more will have been done than said,'' it is so unbelievably important to try to reduce the number of nuclear weapons and to stop the spread of nuclear weapons. But there is a subtext to all the other things we have discussed, which is why I want to put in the record the funding for the nuclear weapons issues. That subtext is money, money related to national security. We are a country with a $13

trillion debt. Modernization is expensive. Yet it relates to our national security. National missile defense, which we have heard a lot about, is very expensive. I understand that also relates to national security. But this issue of getting our debt under control and our fiscal policy under control is just as much a part of the national security interests of this country.

The subtext to these discussions—modernization, missile defense—is about funding as well and getting this country's economic house in order.

Let me mention the issue of nuclear weapons modernization. In fiscal year 2010, we were spending $6.3 billion on the modernization program on nuclear weapons activities. In fiscal year 2011, it went to $7 billion, up 10 percent—so a 10-percent increase for the nuclear weapons activities in President Obama's budget request. That 10-percent increase was unusual because most accounts were flat or some had cuts. But nuclear weapons got a 10-percent increase. The proposal for 2011, a $600 million increase but $7 billion total, was actually short-circuited and put in the continuing resolution. All the other funding in the CR is flat funding from the previous year. But the funding for the nuclear weapons programs at 10 percent higher was put into the CR. Those programs and those programs alone get the higher funding. That $7 billion was not all that was to be spent. Another $4 billion emerged. I heard about that on the radio while driving in North Dakota, that another $4 billion had been put into this pot for modernization. The additional funding from the 1251 report, which was produced in the fall, means 2012 funding would go from $6.3 billion in 2010, $7 billion in 2011, to $7.6 billion in 2012. That is a $1.2 billion increase in 2 years.

Linton Brooks, the fellow who ran the National Nuclear Security Administration and who did a good job in that role, said:

> I would've killed for this kind of budget.

He is referring to $1.12 billion increase and two 10 percent increases, while much of the other budget was flat. We are talking about $85 billion for the next decade on these weapons activities, an increase of $8.5 billion in the next 5 years over what was portrayed in the 2010 budget. We are talking about a lot of additional money that has been committed. It shows a commitment to build two nuclear facilities that were discussed earlier. I want to mention them because it is important to understand what we are doing, the uranium processing facility at the Y–12 production complex and the chemistry and metallurgy research replacement facility at Los Alamos. There were moneys in the 2012 budget in construction funds for these two facilities, not as much as some would want in the Senate. But the fact is, the design of these two facilities is only 45 percent complete. We don't fund things that are 45 percent designed. To come out here and say we ought to be providing robust funding for buildings that are not even designed just makes no sense. Why, NNSA can't have confidence in its funding needs until it reaches about a 90-percent design point and that will be in 2013.

I listened this morning to this discussion and I think what the chairman has done and what Senator KYL has done in reaching an agreement is fine. But I want the record to show that this administration has proposed robust increases in 2010, 2011, 2012, and for a 5-year period in these modernization accounts, life extension programs—robust increases. Even that is not enough for some. They want to put money into buildings that are not yet designed. That doesn't make much sense to me.

My point is, when we add up all of this, the subtext is how are we going to pay for it. Because it is easy to talk about authorizing, to talk about appropriating. The question is, Where does the money come from at a time when we are borrowing 40 cents of everything we spend in this government? The subtext of money and debt is also a significant part of this country's national security. If we don't get our fiscal house in order, all these debates will pale by comparison. We can't lose our economy and have a future collapse of the economy because the rest of the world has very little confidence in our ability to make smart decisions. We can't risk all that and believe we are going to be a world economic power moving forward. If we are going to remain a world economic power—and we can, and I believe we will—it will be because we start making some smart, tough, courageous decisions. That is more than just calling for more money, more spending, which was most of this morning's discussion.

I don't object to the amendment. My colleagues have raised important issues. But it is important to understand we have made great progress on the modernization funding programs in the past months, and this administration has moved very aggressively to meet those needs and meet those concerns. That is important with respect to the public record.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I have given a lot of thought to the treaty, and having been involved in missile defense and nuclear issues serving on the Strategic Forces Subcommittee of Armed Services, as ranking member and chairman, many of the provisions in the treaty are acceptable and should pose no threat to our national security. But considered as part of the administration's stated foreign policy and strategic policy and in relation to the reality of the world situation today, I do not believe the treaty will make us safer. I think that is a good test.

I disagree with my colleagues who are overly confident that this is going to make the world safer. I believe the treaty, for that reason, should be rejected.

Some say a defeat for the treaty would harm the United States. I think the entire world would see the Senate action as a resurgence of America's historical policy of peace through strength and a rejection of a leftist vision of a world without nuclear weapons. The negotiating posture statements and actions of Russia indicate it is regressing sadly into an old Soviet mindset as it views the outside world. This is disappointing and indicative of anything but the positive reset we hope to achieve with them. It is extremely important for Russian and U.S. security and world security, that Russia sees its role as a positive force for peace and security. These negotiations, however, show the face of the old Soviet Union. They have been so relentless in the way they have negotiated.

Negotiations with any mature power, especially Russia, are difficult and serious. This administration began with a naive expectation that a treaty could be quickly achieved that would show their leadership towards peace and a nuclear-free world. The Obama administration wanted to set an example for other nations to reduce their nuclear weapons towards a world without any nuclear weapons. We have heard this leadership and this setting of an example theme repeatedly from the President and the administration. But Russia has not the slightest interest in such vague concepts, nor in eliminating all nuclear weapons. They have no idea or intention ever of relinquishing nuclear weapons. They are focused on their own national interest, on coming out ahead in the negotiations for military, political, psychological, and hegemonic reasons.

It seems clear to me that Russia got what it wanted and President Obama got a treaty paper which strategically means very little but can be touted as a victory for peace.

So this is what I have concluded during this debate—and the debate has been helpful—the debate has caused me to think through a good bit of this. A longer debate at a different time of the year, I think, could have helped all of our colleagues. I do not believe the success in negotiation of the treaty will in any way make the Russians more cooperative, as the administration has repeatedly suggested.

Russia has been inconsistent at best in helping the United States with the danger of nuclear Iran and North Korea—the gravest threats to peace in the world, with military action being undertaken against our ally, South Korea, in recent weeks, and with the real possibility of an attack on Iran's nuclear weapons that, hopefully, can be avoided.

Why has Russia not been more cooperative? They blocked a resolution condemning North Korea Sunday in the U.N. Russia attacked Georgia, a sovereign nation, and continues to occupy Georgian territory. This shocking act

of aggression condemned by independent bodies goes without any real U.S. response. Georgia is a pro-American, free market, independent nation whose attack was calculated and deliberate.

Russia continues to work to undermine the pro-Western democracy movement in the Ukraine. They continue a host of actions that evidence a long-term plan to effect a real or de facto reabsorption of these three nations into what was the old Soviet Union.

So these ominous trends, it seems to me, have not been seriously considered throughout this quest for the treaty. The events do not give me confidence that the treaty, therefore, is a positive step for the United States, the world, or for peace.

Secondly, as I noted, and I will not go into detail now, the administration conceded the two-staged, ground-based interceptor site that would have been established in Poland, that would provide redundant protection to the United States from an Iranian missile and protected virtually all of Europe from an Iranian missile. That was given away unilaterally by the administration without prior warning to our allies in Poland and the Czech Republic. They heard about it in the paper. They realized the United States had gone behind them, our allies, and made a deal with the Russians. It was a very unfortunate event, indeed.

The plan that has been talked about—the fourth phase of the SM–3 Phased Adaptive Approach—is not even on the drawing board and is unlikely to actually survive. It would be difficult to see it surviving in five different budget cycles over the next 10 years it would take to develop that system. We walked away from one that could be deployed soon.

I offered a sense-of-the-Senate resolution to make clear the Senate does not concur in an ill-conceived vision of the administration that would move us to a world without nuclear weapons. I thank Senators KYL, LEMIEUX, CORNYN, CHAMBLISS, and INHOFE for cosponsoring the amendment. While I will not insist on a vote at this hour, this matter will be a significant subject for the future.

Thirdly, I would suggest the treaty is promoted as a step towards a world free of nuclear weapons. This is a fantastical idea that goes beyond insignificance, it is dangerous. Basing any policy, especially a nuclear policy, on an idea as cockamamie as zero nuclear weapons in the world can only lead to confusion and uncertainty. Confusion and uncertainty are the polar opposites of the necessary attributes of security and stability. These are the essentials of good strategic policy: security and stability.

Thus, the Obama policy creates a more dangerous world. Some say the President's zero nukes policy is just a distant vision, some vague wish, so don't worry. The situation would be much better if that were so, but it is not. President Obama has made zero nuclear weapons a cornerstone of our defense policy. It has, amazingly, already been made a centerpiece of our military policy, being advanced by concrete steps today. Presidents, Commanders-in-Chief, have the power to make such monumental changes in policy, and this President is certainly doing so.

The change is seen most seriously in the critically important Nuclear Posture Review produced in April 2010 by the Defense Department. This document is a formal document produced by the new administration's Defense Department. The determination to pursue the zero nuclear weapons vision is seen throughout this review. Amazingly, there are 30 references in that document to a world without nuclear weapons.

The NPR begins with an introductory letter from Secretary of Defense Gates, the second sentence of which says this:

> As the President said in Prague last year, a world without nuclear weapons will not be achieved quickly, but we must begin to take concrete steps today.

The Executive Summary further drives the issue home. The first sentence in the Executive Summary recalls that President Obama, in Prague, highlighted nuclear dangers and said:

> The United States will seek the peace and security of a world without nuclear weapons.

The first sentence in the second paragraph of the NPR is particularly ominous and even chilling to me. Posture Reviews are defense reviews, and by their nature are bottom-up reports, driven by threat assessments and the requirements necessary to defend America. These reviews historically are objective analyses from experts, not political reports. The troubling line reads:

> The 2010 Nuclear Posture Review (NPR) outlines the Administration's approach to promoting the President's agenda for reducing nuclear dangers and pursuing the goal of a world without nuclear weapons.

This statement reveals the whole truth. The NPR is the President's policy, sent from the top down, not the bottom up. Stunningly, the report lacks a clear focus on the only objective that counts: Securing a nuclear arsenal second to none that can, under any circumstances, deter attacks on and defend the United States and its allies.

Fourthly, the Obama vision of a world without nuclear weapons has not been well received. Indeed, the breadth of the criticism from experts and world leaders is noteworthy.

Two years ago, Congress adopted an amendment I proposed that called for a commission to review the strategic posture of the United States. It was bipartisan and chaired by former Secretaries of Defense Dr. William Perry and Dr. James Schlesinger. The commission powerfully dismissed the idea of a world without nuclear weapons. In somewhat diplomatic but clear and strong language, they said this:

> The conditions that might make possible the global elimination of nuclear weapons are not present today and their creation would require a fundamental transformation of the world political order.

They went on to say this:

> All of the commission members believe that reaching the ultimate goal of global nuclear elimination would require a fundamental change in geopolitics.

Maybe the Second Coming.

Others have dismissed this concept as a wild chimera. French President Sarkozy, from one of our European allies, France, said this:

> It [our nuclear deterrent] is neither a matter of prestige nor a question of rank, it is quite simply the Nation's life insurance policy.

He made clear they had no intention of giving that up.

Secretary James Schlesinger, back when President Reagan was meeting in Reykjavik over nuclear issues, made this wise comment:

> Nuclear arsenals are going to be with us as long as there are sovereign states with conflicting ideologies. Unlike Aladdin with his lamp, we have no way to force the nuclear genie back into the bottle. A world without nuclear weapons is a utopian dream.

Keith Payne, who served on this nuclear commission, writing recently in the National Review, said:

> The presumption that United States movement toward nuclear disarmament will deliver nonproliferation success is a fantasy. On the contrary, the United States nuclear arsenal has itself been the single most important tool for nonproliferation in history, and dismantling it would be a huge setback.

Remember the commission.

Jonathan Tepperman, in Newsweek, said:

> And even if Russia and China (and France, Britain, Israel, India, and Pakistan) could be coaxed to abandon their weapons, we'd still live with the fear that any of them could quickly and secretly rearm.

Gideon Rachman, in Financial Times, said:

> The idea of a world free of nuclear weapons is not so much an impossible dream as an impossible nightmare.

William Kristol, writing in the Washington Post, in October, said:

> Yet to justify a world without nuclear weapons, what Obama would really have to envision is a world without war, or without threats of war. . . .The danger is that the allure of a world without nuclear weapons can be a distraction—even an excuse for not acting against real nuclear threats. . . .So while Obama talks of a future without nuclear weapons, the trajectory we are on today is toward a nuclear—and missile-capable North Korea and Iran—and a far more dangerous world.

Others have also written about this.

David Von Drehle, writing in Time Magazine, said:

> A world with nuclear weapons in it is a scary, scary place to think about. The industrialized world without nuclear weapons was a scary, scary place for real. But there is no way to un-ring the nuclear bell. The science and technology of nuclear weapons is widespread, and if nukes are outlawed someday, only outlaws will have nukes.

Kenneth Waltz, leading arms controller and professor emeritus of political science at UC Berkeley, said:

We now have 64 years of experience since Hiroshima. It's striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states.

Importantly, the administration's planned further diminishment of our nuclear stockpile—further diminishing it from these numbers—and President Obama's hostility to the utility of nuclear weapons generally has caused a great deal of unease among our non-nuclear allies. These nations are not so open about their concerns, but the problem is a very real one.

The American nuclear umbrella, our extended deterrence, has allowed our allies, free democratic nations, to remain nuclear free, without having nuclear weapons. But if the Obama policy continues, the Perry-Schlesinger report concludes real dangers may await:

If we are unsuccessful in dealing with current challenges, we may find ourselves at a tipping point, where many additional states conclude that they require nuclear deterrents of their own. If this tipping point is itself mishandled, we may well find ourselves faced with a cascade of proliferation.

The nuclear commission—President Obama appointed a number of the Members on the Democratic side—said that if our allies who feel they have been protected by our nuclear umbrella become uncertain, we could be faced with a cascade of proliferation. Is that what we want? I know the President wants nonproliferation. I know that is what he wants. I am not attacking his goal. Throughout my remarks, I am raising the question of whether these goals will be furthered by the actions of this treaty and these policies or whether they will not.

One final concern. The administration has made it clear that this treaty's nuclear reductions are just the first step in a long march to a nuclear-free world. Assistant Secretary Rose Gottemoeller, who negotiated the treaty, said in April:

We will also seek to include non-strategic, non-deployed weapons in future reductions.

Assistant Secretary of Defense for International Security Affairs and former Ambassador Alexander Vershbow a few weeks ago said that the administration, in follow-on talks, will seek further reductions in strategic, nondeployed, and nonstrategic weapons. And the President has said that repeatedly.

We Senators, in the end, only have our judgment. My best judgment tells me that if our weapons fall too low in numbers, such an event could inspire rogue and dangerous lesser nuclear powers to seek to become peer nuclear competitors to the United States—a dangerous event for the entire world. Thus, I must conclude that the Obama plan is to diminish the power and leadership of the United States. Carefully read, this is what the goal does. I think this conclusion cannot be disputed. The leader of the one nation that has been the greatest force for freedom and stability in the world, with our large nuclear arsenal, is displaying a naivete beyond imagining.

Since this treaty is a calculated step in the President's plan to achieve dangerous and unacceptable policies, this treaty must not be ratified. The treaty and the policy behind it must be rejected.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. We are shortly going to propound a unanimous consent request. I have been saying that a couple of times now, but we really are shortly going to do it. There are several Senators who wish to speak. I would like to see if we could set up an order for them.

I ask unanimous consent that the Senator from Washington proceed for 10 minutes, then the Senator from Texas for up to 10 minutes, then the Senator from North Dakota for 5 minutes. I ask unanimous consent also that each of those Senators would allow the interruption for the propounding of the unanimous consent request if it comes during the time they are speaking.

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

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

DEFENSE LEVEL PLAYING FIELD ACT

Mrs. MURRAY. Madam President, I rise this afternoon to call on the Senate to move and pass H.R. 6540, which is the Defense Level Playing Field Act, a bill which was passed overwhelmingly by the House of Representatives yesterday.

This is a bill that is identical to a bipartisan provision I have introduced here in the Senate with Senators BROWNBACK, CANTWELL, and others from States that know the value of American aerospace. It is a bill that will require the Pentagon to take into account illegal subsidies to foreign companies in our country, and that will finally deliver an even playing field in our procurement process.

But above all, this is a jobs bill. It is about protecting skilled, family-wage jobs, manufacturing jobs, and engineering jobs—jobs with technical skills and expertise that are passed down from one generation to the next; jobs that not only support our families during a very difficult economic time but are also helping to keep our communities above water. These are jobs in communities in Kansas, in Connecticut, in California, and in my home State of Washington. They are jobs that support small businesses, they pay people's mortgages, and they create economic opportunity. These jobs right now are at risk. Why? Because of illegal subsidies that undercut our workers and create an uneven playing field for America's aerospace workers.

This is a commonsense, straightforward way to protect American aerospace jobs from unfairly subsidized European competition. It is a bill that specifically targets a major job-creating project—the Air Force's aerial refueling tanker contract—as a place where we can begin to restore fairness for our aerospace workers. This bill says that in awarding that critical tanker contract, the Pentagon must consider any unfair competitive advantage aerospace companies have, and there is no bigger unfair advantage right now in the world of international aerospace than launch aid.

As my colleagues may know, launch aid is direct funding that has been provided to the European aerospace company Airbus from the treasuries of European governments. It is what supports their factories and their workers and their airplanes. It is what allows them to price their airplanes far below those that are made here in the United States and still turn a profit. It is what allows them to literally role the dice and lose on a product and what separates them from American aerospace companies, such as Boeing, that bet the company on each new airplane line they produce. In short, it is what allows them to stack the decks against American workers.

In July of this year, the World Trade Organization handed down a ruling in a case that the United States brought against the European Union that finally called launch aid what it really is: a trade-distorting, job-killing, unfair advantage. That is what the WTO said. It is one of our Nation's most important trade cases to date. The WTO ruled very clearly that launch aid is illegal, it creates an uneven playing field, it has harmed American workers and companies, and it needs to end.

Specifically, the WTO found that European governments have provided Airbus with more than 15 billion Euros in launch aid, subsidizing every model of aircraft ever produced by Airbus in the last 40 years, including, by the way, the A330—the very model they are now putting forward in the tanker competition. The WTO ruled that France and Germany and Spain provided more than 1 billion Euros in infrastructure and infrastructure-related grants between 1989 and 2001, as well as another billion in share transfers and equity infusions into Airbus. They ruled that European governments provided over 1 billion in Euros in funding between 1986 and 2005 for research and development directed specifically to the development of Airbus aircraft. In fact, the Lexington Institute states that launch aid represents over $200 billion in today's dollars in total subsidies to Airbus.

Launch aid has very real consequences. It has created an uphill battle for our American workers and American aerospace as a whole. Because of launch aid, our workers are now not only competing against rival companies, they are competing against the treasuries of European governments. At the end of the day, that has

meant lost jobs at our American aerospace companies and suppliers and the communities that support them.

I have been speaking out against Europe's market-distorting actions for many years because I understand that these subsidies are not only illegal, they are deeply unfair and anticompetitive.

My home State of Washington is, of course, home to much of our country's aerospace industry, and I know our workers are the best in the world. On a level playing field, they can compete and win against absolutely anybody. But, unfortunately, Airbus and the European Union have refused to allow fair competition. Instead, they use their aerospace industry as a government-funded jobs program, and they use billions in illegal launch aid to fund it.

So let me be clear about one thing. The objective of this bill that was passed overwhelmingly by the House of Representatives yesterday is not to limit competition; it is to make sure everyone can compete on a level playing field. Airbus has made it clear they will go to any lengths to hurt our country's aerospace industry. We need to make it clear we will take every action to stop them because this is not only about the future of aerospace; it is about jobs right now that will help our economy recover. In fact, as we look at ways to stimulate job growth and keep American companies innovating and growing, we shouldn't look any further than this bill.

This bill is a commonsense policy. It makes sure U.S. Government policy translates to Pentagon policy because the fact is that the U.S. Government, through our Trade Representative, has taken the position that Airbus subsidies are illegal and unfair. Yet, on the other hand, the U.S. Department of Defense is ignoring that position as we look to purchase a new tanker fleet, and that does not make any sense—not for our country, not for our military, and certainly not for our workers. The WTO made a fair decision. Airbus subsidies are illegal and anticompetitive. Now the Department of Defense needs to take that ruling into account.

When I go home and talk to our aerospace workers in Washington State, I want to be able to tell them we have evened the stakes. I want them to know their government is not looking the other way as policies continue to undercut their jobs and their opportunities. I want them to know that while they are working to secure our country by producing the best airplane in the world, their government is doing everything it can to make sure fair opportunities are there that will keep them on the job.

It is time to take these job-killing subsidies into account. It is the right thing to do for our workers, for our economy, and the future of our airspace industry.

UNANIMOUS CONSENT REQUEST—H.R. 6540

So I ask, as if in legislative session and as if in morning business, unanimous consent that the Senate proceed to the immediate consideration of H.R. 6540, which was received from the House and is at the desk; that the bill be read three times and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alabama.

Mr. SESSIONS. Madam President, I appreciate the loyalty of my colleague from Washington for the Boeing facility that is there. I just want to say that other workers are involved, including 48,000 new jobs that would be created if the plant in Alabama were to be the one selected in this competition.

As a member of the Armed Services Committee, I would note that we voted a number of years ago unanimously to have a competition. There are only two companies in the world that can make this kind of aircraft. It is a commercial aircraft, not a highly sophisticated defense system such as a fighter. The EADS team committed to build that in America—bringing jobs not just to Alabama but jobs all over the Nation, far more around the Nation than just in Alabama—and to create a third major world aircraft facility. Congress asked that the bids be competitively let and that these two competitors be given a chance to submit the best proposal.

I am highly convinced that the EADS aircraft is superior—is larger, it is newer—and more effective in the role it is asked to fulfill.

Mrs. MURRAY. Madam President, I would just ask what the order is at this point.

The PRESIDING OFFICER. The Senator sought recognition after he objected.

Mrs. MURRAY. The unanimous consent agreement was that the Senator from Texas would proceed after I had yielded the floor, which I had not yielded.

The PRESIDING OFFICER. At this time, the Senator from Alabama was the only person who sought recognition.

Mrs. MURRAY. Madam President, I believe there was an agreement that the Senator from Texas follow my remarks.

The PRESIDING OFFICER. There was an order, but there was no objection. There was no one who sought recognition.

Mr. SESSIONS. I will wrap up, briefly, if I could.

Mrs. HUTCHISON addressed the chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. If the Senator from Alabama wants to finish his objection—

Mrs. BOXER. Mr. President, parliamentary inquiry: My understanding is that the Senator from Washington had 10 minutes. My understanding is she had completed that 10 minutes; am I incorrect on that?

The PRESIDING OFFICER. Her time has expired.

Mrs. BOXER. I didn't hear the Chair say that. I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I ask the Senator from Alabama, I thought he was objecting on Senator MURRAY's time, and I was next in the unanimous consent. My question is, is he finished with his objection?

Mr. SESSIONS. I wish 1 additional minute to wrap up, if I could, and then I will yield the floor.

Mrs. MURRAY. Madam President, then I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I have the floor, I believe.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, after this competition has been going on for quite a number of years, and both parties have been very seriously competing for this contract, it is expected to be awarded in March of next year. The Defense Department has considered every one of these issues, including the WTO issue. The lawyers talked about it and we have talked about it in the Senate and the House.

At this very last minute, on the eve of awarding the competition, a House bill was passed without any debate. We have not discussed it or had a hearing on it. It should not be approved. I object.

I yield the floor.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Madam President, we are asking for a level playing field with a bill that passed the House. This is a discussion we have had many times. It says that illegal subsidies from any company should be taken into account on a deal in front of the Pentagon.

I will stand anytime and fight for fairness and competition. I am sorry this has been objected to, because it meant our country would have a fair competition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I rise to speak on the START treaty. I spoke on the floor Saturday stating my concerns about this treaty and the need to address a number of very important issues. I had hoped that amendments that had been offered would be able to clarify the position—the United States position—on this treaty.

I have listened to the debate. I have watched many amendments go down. The treaty supporters have said that these amendments are deal killers,

treaty killers. I disagree. I believe everybody has been sincere, but I am not persuaded that the Senate's role to advise and consent to treaties has successfully finetuned the understanding on our part, if we accept this treaty, nor the Russian positions—have they been clarified with our objections or disagreements with the Russian position.

I understand it would have made it hard for the administration to amend the text. But even amendments that would try to amend the preamble, or even the ratification resolution that would clarify the United States position, have caused me great pause. For instance, when we are talking about missile defense, former Secretary of State Condoleezza Rice, in a Wall Street Journal op-ed, said:

> Russians tend to interpret every utterance as binding commitment.

She went on to write:

> The Russians need to understand that the U.S. will use the full range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

I am concerned that this treaty still has a lot of misunderstanding about the United States missile defense capability. I am concerned that our capability, with the understanding of Russians, would be restricted. Russia and the United States each have issued unilateral statements when they signed the New START that clarified their position on the relationship between START and missile defense. Russia stated:

> The treaty can operate and be viable only if the United States refrains from developing its missile defense capabilities quantitatively or qualitatively.

I think we should state clearly in the resolution to ratify that it is not the position of the United States to place any limitations on missile defense. The President wrote a letter saying he disagreed with the Russian position and, yet, Senator MCCAIN offered an amendment that would have stricken language in the preamble of the treaty that would have made it clear what the United States position was, and that amendment was not adopted by this body.

As we speak, I don't believe Russia is our enemy. This is a 10–year treaty. We don't know 10 years down the road how relationships might change. I believe our relationship with Russia is important, but there are rogue nations in the world that are hostile to the United States, which are working in earnest to get nuclear capability and possibly already have it, plus warheads to put those nuclear weapons on.

With the threat of a nuclear-armed Iran or North Korea, or Pakistan, which is our ally, which has a fragile government, or even Venezuela, which is working with Iran and is certainly within our hemisphere, it would be unthinkable to have any kind of miscommunication about the United States capability to control its own defense capabilities. That is exactly what the Russian statement said we could not do.

U.S. planning and force requirements may have to change in the next 10 years and, frankly, I think they ought to be going forward right now to ensure that we can withstand any kind of warhead, nuclear or otherwise, that would come in from rogue nations.

That in itself is enough for me to say we have not fulfilled our responsibility under the Constitution for advice to the President on treaties. That is our solemn responsibility, and I do not think we have been successfully able to do that because we have been blocked on every amendment, calling them deal killers.

I think a strong New START is in our best interest. But I believe that this treaty does not address other areas of concern I have voiced as well. I believe this treaty could further be improved by increasing the number of type one and type two inspections, as was attempted by the Inhofe amendment that was defeated yesterday.

For instance, we know there are loose nukes that have come from Russian arsenals in the past, because the Russians have not had a clear control, or list of, or don't seem to be totally firm about where all of their arsenal is, and they don't seem to have the accountability. So the loose nukes, it has been reported, have shown up in other places, such as, for instance, North Korea. So I think verification becomes more important, to get a true idea of exactly what the Russians have, so there can be an accountability going forward to assure that whatever number are in whatever place would always stay the same, unless they are part of the drawdown.

I think the verification amendment Senator INHOFE had that was defeated would have improved our capability to understand exactly what was out there that might loosely go to Iran or North Korea, with whom the Russians have relationships, though we do not.

Former Secretary of State James Baker described the treaty's verification regime as weaker than its predecessor. I agree with his comment, and I hope we can improve the situation. To be fair, Secretary Baker supports the treaty. But he did recognize its shortcomings, and I think that should have been addressed by the Senate, without fear of what the Russians might say about our capability to defend against threats, not from Russia necessarily, other than the haplessness of not knowing for sure where your nuclear weapons are—I don't think Russia is our enemy. I want a relationship with Russia.

The missile defense we were not able to even clarify in the resolution of ratification causes me great concern. The verification not being as adequate as I think we need, and then the modernization, which we also address in other amendments, I think, are also problematic. I believe we must know our nuclear warheads could be used in the worst-case circumstance, because I think that is a deterrent.

Because of these things, I am going to vote no today on the ratification of the treaty. I think the Senate could have improved the understanding of this treaty. I think we could have strengthened it with real amendments that would have strengthened even what the President said in his letter to the Senate, saying that he disagreed with the Russian interpretation. But then when we tried to put that in writing, that didn't pass. So I believe we should not pass this treaty today. I think we can fulfill our responsibility for advice and consent and have a more bipartisan passing of the resolution. I think we need a good relationship with Russia. I think we need to protect, at all costs, the United States unilateral capability for missile defense for our country against other nations. I don't think Russia is a threat, but I do think rogue nations that have nuclear capabilities are. I think the symbiotic relationship between Venezuela and Iran is a very real threat to the United States. I think we need to start preparing more carefully about that.

I know my time is up. I appreciate the time to state my reasons for voting against this and hope that when it passes—which I think it will—we will be more firm in clarifying with the Russians our view of our national security interests.

I yield the floor.

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

Mr. KERRY. Madam President, first, if I can interrupt for a moment before the Senator from North Dakota speaks, according to the prior order. I want to inform Senators that it is now 1:15. We are awaiting language which is forthcoming relatively soon on the 9/11 issue. I think it is the intention of the majority leader to vote very quickly after that unanimous consent agreement comes together. That means we could have a vote, conceivably, on the final passage of the resolution of ratification on the treaty somewhere—this is a guess—within the vicinity of 1:45 to 2 o'clock. That is a guess. Senator KYL I know wanted to speak prior to that taking place. We are trying to preserve that within the order. That said, I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, we expect to have the necessary papers to complete the consent agreement within the next 15 minutes. It is 1:15 now, so we hope by 1:30. Sometimes Senate time is not exactly right, but we are getting very close to being able to do this consent agreement. It has been typed. We are waiting for the papers to come from the Hart Building.

We want everyone to be patient. We know how anxious everyone is to complete the business of this Congress. Just everyone understand it should be not much longer.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I was not going to speak again, but I was prompted to by my colleague from Alabama, a friend and someone for whom I have great respect. The presentation by my colleague from Alabama suggested that President Obama is moving in the direction of disarming us, the implication is that of injuring our national security by proposing that we have fewer nuclear weapons. Let me make a point that I think is so important for the record.

I hope it is not now or ever considered a source of weakness for this country to aspire to have a planet with fewer nuclear weapons. It ought to be a source of strength that we understand it becomes our burden as a world leader—an economic leader and nuclear power—to try to reduce the number of nuclear weapons on this Earth.

This President has not proposed anything that would injure our national security. He is not proposing anything that is unilateral. He has negotiated and his team has negotiated a very strong arms reduction treaty with the Russians.

I know there has been great discussion about modernization, whether there is enough money, about why tactical nuclear weapons were not included, the issue of whether it limits us with respect to missile defense. All of those issues have been answered. All have been responded to.

The question, it seems to me, for us now and for all Americans, and particularly those who serve in Congress in the future, is will we be a world leader in pushing for a reduction in the number of nuclear weapons on this planet?

There are some 25,000 nuclear weapons on this planet. The loss of just one of those weapons, into the hands of a terrorist or rogue nation who might then explode it in a major city on Earth would change everything.

My colleagues are probably tired of hearing me say it, but in my desk I have kept a piece of a Soviet Union bomber, a very small piece of a wing strut from a Soviet Union bomber. We did not shoot it down. We negotiated that bomber down by paying money to saw the wings off.

Nuclear arms reduction treaties work. We know they work. There are Russian submarines that were not destroyed in battle. We ground them up and took them apart. The wings were sawed off bombers, and they were sold for scrap. Nuclear missiles in silos with nuclear warheads aimed at American cities are gone.

I will give an example. One was in Ukraine. Now sunflower seeds adorn that pasture where there was a missile with a nuclear weapon aimed at America.

We know these arms reduction treaties work because we have seen them work. Fewer nuclear weapons, fewer delivery vehicles, bombers, submarines, missiles—we know this works.

My colleague seemed to suggest that it would be a horrible thing if the entire world were rid of nuclear weapons. I hope that every Senator would aspire to have that be the case, a world in which there was not one weapon left, for almost surely every offensive weapon on this planet has always been used. We need to be very concerned about the number of nuclear weapons, the spread of nuclear weapons, the need, the desire for terrorists to acquire nuclear weapons. That is why these treaties and these negotiations on arms reduction are so unbelievably important.

Never has it been more important because now there is a new threat. They do not wear uniforms. They do not belong to one country. It is the terrorist threat. And they strive mightily to acquire nuclear weapons.

This treaty negotiated at the start by the previous President and concluded by this President, in my judgment, strengthens this country, represents our best national security interests.

I ask the question of anyone who believes that it is a threat for us to begin reducing nuclear weapons through arms negotiations with others who have nuclear weapons: Who, if not us, will lead the way to do that? If not us, who? Is there another country they think will aspire to provide leadership to reduce the number of nuclear weapons? If there is, tell us the name because we all know better than that.

This responsibility falls on our shoulders. We are the leading nuclear power on this Earth. It is our responsibility, it is this country's responsibility to lead. I don't ever want anybody to suggest it is some sort of weakness for this President or any President to engage in arms reduction negotiations. That is a source of strength.

This treaty was negotiated carefully. I was on the national security working group. We had briefing after briefing in top-secret venues. This treaty was carefully negotiated. It represents our best interests. It represents a reduction of nuclear weapons, a reduction of delivery vehicles and represents, in my judgment, another step in reducing the nuclear threat. It is not even a giant step, but it certainly is a step in the right direction.

This represents our best national security interests, and this President has demonstrated, yes, he wants a world with fewer nuclear weapons. He wants a world, as would I, with no nuclear weapons at some point. But this President would never allow negotiations or never allow circumstances in which this country is unarmed or unprepared or unable to meet its national security needs. He has not done that, not in this treaty, and will not do it in the future.

I did want to stand up and say that because of the comments earlier by the Senator who suggested there is some sort of weakness for a country that aspires to have a reduction of nuclear weapons on this planet.

Let me finally say, I have spoken at length on this floor about the severity of losing even just one nuclear weapon. I have told the story about a CIA agent code-named Dragonfire who reported 1 month after 9/11 that a 10-kiloton nuclear weapon had been stolen from Russia and that nuclear weapon had been smuggled into New York City and was to be detonated. There was an apoplectic seizure in this town about it because no one knew what to do about it. They did not even notify the mayor of New York.

They discovered a month later that was probably not a credible piece of information. But as they did the diagnosis of it, they discovered it is plausible someone could have acquired a 10-kiloton nuclear weapon from Russia, it was plausible; if they had done that, they could have smuggled it into an American city and if terrorists did that they could have detonated it. Then we are not talking about 3,000 deaths, we are talking about 100,000, 200,000 deaths.

The work we have done in so many areas, the work in this administration, let me say, to secure loose nuclear materials, circumstances where plutonium or highly enriched uranium in the size of a liter or, in one case, in the size of a small can of soda, enough to kill tens and tens of thousands of people with a nuclear weapon—this is serious business. At a time when we debate a lot of issues—serious and not so serious—this is serious business.

I think the work that has been done by the chairman and ranking member in recent days—I watched a lot of this and watched it over this year—is extraordinary work. But so too is the work by this President, by the negotiators. My colleague described the folks at the State Department who had a significant role as well.

Let us not ever think it is a source of weakness to be negotiating verifiable reductions in nuclear weapons among those who possess them. That is a source of strength, and it is important for our kids and grandchildren who can succeed by continuing to do that with treaties that make the best sense for this country's national security interests.

I see the Senator from Massachusetts does not yet have a unanimous consent request, but I know all my colleagues are anxious to see one.

I yield the floor, and I expect, as the majority leader indicated, within the next half hour or so we will be voting, and I think that is good news. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

INTEREST ON LAWYER TRUST ACCOUNTS

Mr. MERKLEY. Madam President, I rise to discuss and ask unanimous consent for consideration of H.R. 6398. I

will get to the unanimous consent language in a moment, but right now I want to describe what this is about. Then I wish to yield to my colleague from Georgia to add a little bit of the impact of this issue.

The issue is this: In all 50 States in America, lawyers have to put clients' funds into trust accounts. Under the law, they are not allowed to earn interest on these accounts. Over time, an arrangement has been worked out whereby the banks pay interest, but it does not go to the clients; it goes to fund civil legal services for those who cannot afford those services.

This arrangement is in great jeopardy if we do not pass this bill today. I will expand on that jeopardy in a moment, but at this point I simply am going to yield to my colleague from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I thank the Senator from Oregon. This is very important work, and we are in our late hour. Sometimes we do our best in the late hour.

The unintended consequence of the Dodd-Frank legislation with regard to IOLTA is it not being extended and we are going to literally have thousands of escrow accounts held by law firms and attorneys, real estate transactions, dispute resolution transactions, and beneficial programs that will have to be spread among many more banks because the insurance level, which is now limited, drops to $250,000. It would force the transfer of escrow account money out of any number of banks. At a time when capital is critical in small community banks, the unintended consequence might have been to take them below tier one capital requirements and put them in a stress situation.

I commend the distinguished Senator from Oregon for his work on this legislation. I thank the Senator from Louisiana, Mr. VITTER, for his consent for us to bring this forward. I give wholehearted support to the unanimous consent request.

I yield back to the Senator.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I appreciate so much the partnership of my colleague from Georgia. He has laid out clearly the impact of a failure to fix this legislation on our community banks where lawyers, exercising their fiduciary responsibilities, would have to move their trust accounts out of these special accounts where the interest goes to legal services and legal education and into no-interest-bearing accounts so that no one gains from that movement. In the course of it, they would be moving funds often from community banks to other institutions, imperiling these community banks.

I wish to address the other side of this issue, which is the important work these funds do in all 50 States. I will speak specifically to the State of Oregon, but there are parallels because all 50 States participate with these accounts.

In Oregon, we have, first, the association of Oregon Legal Services Program, its primary source of civil legal assistance available to low-income Oregonians. To give a sense, if a woman is having a big challenge with domestic violence, she can get legal aid through this type of assistance. If a family is trying to struggle with a mistake on a foreclosure process so they can save their home, they can get assistance through this program. They have 20 offices throughout the State of Oregon to serve Oregonians living in poverty.

Second is the Juvenile Rights Project. This provides legal services to children and families through individual representation in juvenile court and school proceedings to help children who are in extraordinarily difficult circumstances.

A third is Disability Rights Oregon, the Oregon Advocacy Center, which assists those who are disabled, who are victims of abuse or neglect, or have difficulty acquiring health care or need to exercise their rights in regard to special education. They can turn to the Oregon Advocacy Center-Disability Rights of Oregon for help.

In addition, these funds pay for legal-oriented education for our K–12 students. Let me give an example of three programs in Oregon. These programs assist 15,000 students in our State.

One is the High School Mock Trial Competition. This type of mock trial competition is an enormous learning exercise for our students in how our courts function and how the facts of a case are presented and how the principles of law are applied.

Then we have the summer institute training for teachers so that social studies teachers can learn more about the role of law and be more effective in conveying that vision to our students.

Then I also want to mention the We The People Program on the Constitution and Bill of Rights. Here in this Chamber, we discuss the Constitution and the Bill of Rights virtually on a daily basis. Virtually every day on this floor, we discuss how these founding documents affect how our laws are applied and how freedoms are protected in the United States of America. This program helps our children learn those fundamental principles. Sort of the heart and spirit of the American democratic world are conveyed through this We The People Program.

I also wish to commend a whole host of banks in Oregon that have agreed not only to pay interest on these lawyer trust accounts—and IOLTA stands for interest on lawyer trust accounts—but to pay 1 percent, which is above the going rate on most types of transaction accounts. They do that because they benefit from the deposits, and they know their communities benefit from these services and these programs.

This legislation will resolve a problem in which lawyers, applying their fiduciary responsibilities, would have had to withdraw their funds from these accounts and put them in other non-interest-bearing accounts, to no benefit to anyone and to a great deal of harm to so many.

INTEREST ON LAWYERS TRUST ACCOUNTS

Mr. MERKLEY. Madam President, I ask unanimous consent, as if in legislative session and as if in morning business, that the Senate proceed to the immediate consideration of H.R. 6398, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6398) to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts.

There being no objection, the Senate proceeded to consider the bill.

Mr. MERKLEY. Madam President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 6398) was ordered to a third reading, was read the third time, and passed.

Mr. MERKLEY. Madam President, I wish to thank the Chair and my colleague from Georgia who understood and presented so effectively the impact on our community banks that are working hard to get funds out to our Main Street businesses so we can create jobs and put our economy back on track.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I commend the Senator from Oregon and thank him for his help on this important issue for people all over the United States, not just in Oregon and Georgia but around the country. This is a great effort, and I commend him on it.

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

Mr. ISAKSON. Madam President, I wish to take an additional minute, if I might—the chairman of the Foreign Relations Committee is on the floor—to say, in addition to my statement I made 2 days ago in a speech on the floor with regard to the START treaty, that I wish to thank the chairman and the ranking member of the Foreign Relations Committee for the accommodating process from day one in April until today, where the treaty will ultimately pass on the floor of the Senate.

Legislation is about improving ideas and making sure the interest of the

American people and the United States of America is protected. Through the work of Senators LUGAR and KERRY, we have been able to craft amendments to the resolution of ratification on the START treaty that ensure missile defense and modernization—the two contentious points on this legislation which came from the committee—are not only taken care of, but they are buttoned down and they are clear. And I thank the chairman and the ranking member for their willingness to do so.

I want to let everyone who is listening and those who will read the reports of this debate know that this has been a 7-month process, not a 9-day process, and it has been a detailed process. It has been the work of the will of the people of the United States of America, and the U.S. Senate has worked its will. When it is ratified today, it will be a step forward in the future for my children and grandchildren.

During my campaign when I ran for reelection this year, I made the following statement: The rest of my life is about doing everything I can do to see to it that the lives of my children and grandchildren are safer, more secure, and as affluent as my life has been because of my parents and grandparents. Today, in this ratification, we are ensuring that we will be strong in our strength, we will trust but we will verify. We will make sure we can fight, if necessary, but we will also make sure we are accountable. And most important of all, with regard to the biggest threats we face—terrorism and loose nuclear materials falling into the hands of a rogue nation—we will be a safer country because of this, and I thank the chairman and ranking member because of it.

I thank the chairman for his time, and I yield back.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Madam President, I rise to oppose the START treaty because it recognizes limits on U.S. missile defenses in return for marginal reductions in the Russian arsenal. At the moment when the U.S. and allies must build missile defenses to protect against Iran, this treaty generates Russian pressure for America to go slow or risk Russia's departure from the agreement.

If you take the President's Senate missile defense letter at face value, then America would deploy defenses that will trigger a Russian treaty exit. I am concerned that to prevent a Russian treaty withdrawal, the United States will move slower on building defenses against Iran just when we need to move faster.

The most important duty of the Federal Government is to defend Americans against foreign attack, and the most important mission under that duty is to protect American families from the most dangerous nations that could carry out such an attack.

In the mid-20th century, we agreed that the Soviet Union represented a clear and present danger to America. Our Cold War Presidents—Truman through Clinton, Republicans and Democrats—backed policies of a strong defense, with alliances with our friends and diplomacy with the Soviets. But much has changed since the 20th century ended over a decade ago. While the Russians still have an impressive arsenal, they are shadows of their former shadow, dropping from 290 million people to 140 million people and from a gross domestic product of $2.6 trillion in 1990 to $2.1 trillion in 2010. The nuclear national security threat for the new 21st century moved beyond Russia to include Iran and North Korea, soon to be armed with nuclear weapons and missiles to deliver them.

While the Russians are heavily armed, they present a relatively stable face to the outside world. They have the capability to attack, but they currently lack the intent. On any given year, their leaders appear adverse to risk and unready to commit national suicide. The same cannot be said for Iran, North Korea, and other nations that present a far less rational face to the international community. Looking at such potentially irresponsible leaders, it is incumbent on us to go beyond idealistic diplomacy and mount a defense against an attack which may be leveled against our people or our allies. The lives of millions and the cause of freedom depend on our assessment of this threat and how we respond.

Recall that nuclear technology represents the science of the 1930s, missile technology from the 1960s. Since the laws of physics cannot be classified, countries bad and good will all one day have the means to develop powerful arsenals based on the last century's science. It is the sacred mission of the democracies to understand this change, to measure its danger, and to eliminate an attack should one of these smaller, less rational countries attack.

In such an environment, an agreement to limit the nuclear arms of the United States and Russia is helpful but does not concern the new danger emerging against the people of the West. If we can lower nuclear arms to levels where we still maintain a devastating counterpunch against a rational opponent who is uninterested in national suicide, then a nuclear war with that country remains unlikely and the cost of our armaments is reduced. If that agreement also causes us not to build defenses against an irrational opponent who may attack anyway, then we have committed a grievous national error.

I initially favored the goals of the START treaty. The treaty is an echo from the 20th century and had a marginal utility in improving the defense of the United States. Unfortunately, the negotiations to produce this treaty took a turn that was not well perceived by the press or public. The Russians used these negotiations intended to improve the defense of the United States as a means to preserve their ability to attack.

Surprisingly, American negotiators formalized a link in the protocol between limiting defenses against missile attack and maintaining forces to carry out such a strike. Perversely, this agreement now stands for two principles: No. 1, the United States and Russia should reduce their nuclear arms, on which we all agree, and No. 2, the United States should recognize policies to maintain the viability of a Russian attack. This second principle turns the purpose of the treaty on its head. It weakens the future defense of our Nation. The treaty would support a policy that we must not improve our defenses to such a degree as to defeat a Russian attack.

Much of this has had little impact on actual defense plans regarding Russia. Russia presents a relatively stable, status quo face to the international community. It also maintains a nuclear force which would quickly overwhelm any planned system of defense. But a policy of limiting missile defense has a tremendous impact on our ability to thwart an attack from less responsible powers, such as Iran or North Korea. Given the actions of Iranian and North Korean leaders, I would argue these countries represent the more important danger to the future of the United States and our allies in this new century.

In the 20th century, the argument about the defense of the Nation against an attack by missiles took on a divided and partisan tone. President Reagan proposed ''missile defense,'' while congressional Democrats opposed ''Star Wars.''

Much of the disagreement ended in the late 1980s and 1990s when Iraq attacked Iran and then Israel with missiles.

Over time, careful observers noted that missile defense was important not just to the health of Israel but to its survival.

When Russia attacked Georgia, it used a great number of missiles to deliver blows against that little country. As this century winds on, more countries will see these realities of the 21st century, eventually including the United States.

The administration's unsteady missile defense plans also concern me. I am concerned about the missile defense actions taken by the current administration. When it took office, it cancelled plans to enhance the missile defenses of the United States itself that were based in Alaska and California. To the great embarrassment of our allies in the Czech Republic and Poland, it cancelled plans to deploy radars and two-stage ground-based interceptors (GBIs). I would note that history has been unkind to Western leaders that abandon Poland.

The administration also began an effort to cancel funding for the ''Arrow III'' interceptor being jointly developed with Israel. Thanks to the late Chairman of the House Defense Appropriations Committee, Jack Murtha, the effort to kill Arrow III was reversed and

full-funding came to the Arrow III program despite the President's early wishes.

Once the negative reaction of our hurt Polish allies was known, the administration responded with a four-part plan to calm Europe using systems inferior to the GBI anti-missiles originally proposed by the last administration and current Secretary of defense. The inartfully coined European ''Phased-Adaptive'' approach involved anti-aircraft systems patched together in a rather ad hoc fashion. We now plan to begin by sailing U.S. Navy Aegis cruisers near European coasts followed by a decade and the possible deployment of a to-be-built Navy missile interceptor that does not yet exist, called the ''Standard Missile 3, block IIA''.

I contacted our Missile Defense Agency and asked if the originally planned GBIs for Poland could have stopped an attack by Iran against the United States. They answered yes.

We checked if any one of the new ''Phased-Adaptive'' stages could stop a similar intercontinental attack by Iran against the U.S. They answered Phase I could not, Phase II could not, and Phase III could not.

In fact the only phase that could engage a missile launched by Iran against the U.S. was not until Phase IV by the IIB missile that did not yet exist that would be deployed far later than the original GBIs proposed.

The problem goes deeper. I asked the MDA to compare the capabilities of the originally proposed two-stage GBIs to hit an Iranian missile against the future final Phase IV SM–3 JIB. The MDA replied with this graph. It shows that the original, longer range GBIs would have a full 4-minute window to hit and destroy an incoming Iranian missile bound for New York City. The SM–3 IIB, which has a shorter range, would have only 3 minutes. In short, the administration's new proposed missile has 25 percent less time to defeat an incoming Iranian attack than the originally proposed missile. No wonder our Polish allies supported the original plan.

I worry that some of these changes were made to curry favor with the Russians. I am concerned that the preamble to the START treaty would be used to reduce or block the efforts of the Congress to upgrade the defenses of the United States. In short, I am worried that while this treaty reduces the smaller threat of attack by Russia, it creates a Russian block for plans to eliminate the larger threat from Iran. The Russians clearly stated that if we mount defenses that could defeat their attack, they would pull out of the treaty. The problem is that to eliminate the threat from Iran and North Korea, we will have to do so. In this case, what is the value of the treaty? It clearly helps the Russians but if it blocks or delays our effort to protect against Iran, does it help us? I am also concerned with other aspects of this treaty, like an end to full-time compliance monitoring inside Russia.

There are also details of the treaty itself that concern me. Under previous treaties, the United States had a full-time monitoring presence in Votkinsk. This was eliminated. We will no longer have full-time monitors in Russia.

Also, an end to telemetry from new Russian missiles. Under previous treaties, the United States and Russia shared all the information transmitted by their test missiles in flight, called telemetry. While our spy satellites, planes and ships can gather some of this information, there is nothing like getting it straight from the missile's mouth. Telemetry is key to understanding the capability of a new missile, especially its maneuvers to drop off one or more nuclear warheads.

Under this new treaty, this data was lost. The Russians will not provide telemetry from their new missiles under this treaty. Their only obligation is to share telemetry from five missile flights a year and they will likely pick old missiles to do this.

We are told we lost the capability to collect the telemetry of new Russian missiles because while the Russians are developing many new models, we are not. Given that telemetry would report mainly on new Russian developments and not American, our negotiators gave up.

They should not have given up. The collection of telemetry from new Russian missiles had long been enshrined in arms control treaties. This precedent was well established and should have been continued.

There are inspections, but only 18 per year. We are told that the new treaty will offer the unprecedented inspection of actual missile warheads. This is true. Under the old treaties, we simply counted the number of missiles the Russians had using our spy satellites and assumed each missile was packed with as many warheads as the missile's flight tests and telemetry showed.

Now we will get to inspect actual missiles—but only 18 per year. The Russians have hundreds. At the rate the treaty allows, the full inspection of the Russian arsenal of 800 launchers would take over 40 years.

I asked administration officials how many hours notice the Russians would have before Americans conducted an actual warhead inspection. In all cases, they would have 24 hours or more notice that the Americans were coming. After extensive briefings on Russian cheating against previous arms control treaties—most flagrantly the treaty banning biological weapons—it should give you pause that the United States gave up collecting telemetry on the flight of every Russian missile in return for the inspection of 10 missiles per year and that only after a full day's notice.

We are also told that this treaty is needed to improve Russian international behavior. In my view, a treaty should only be signed to reward good behavior, not to encourage it later.

I was most inclined to support the intent of this treaty to improve relations between the United States and Russia on the subject of collapsing the Iranian regime and its nuclear weapons program. Undoubtedly, the administration earned good marks in getting the Russians to cancel the delivery of one key piece of air defense equipment—an anti-aircraft missile battery called the S–300—to Iran. This was an unqualified success.

Unfortunately, there are many more failures where the press paid little note. We believe the Russians are still delivering other pieces of air defense equipment to the Iranians. That is why the Russians insisted on exempting such deliveries from the new U.N. sanctions against Iran. Russian equipment will likely be used to defend Iran's nuclear sites, the very programs we are most worried about that violate Iran's commitment to the U.N. Nuclear Non-Proliferation Treaty.

What is most surprising is the actions of the Russians since the negotiation of this treaty. They know we, the Europeans and Israelis are most worried about the nuclear program of Iran. Despite these well-publicized concerns and numerous U.N. resolutions against the Iranian nuclear program, the Russians chose this year and this country to provide nuclear fuel to the Iranian reactor at Bushehr. As that Russian reactor begins operation, plutonium production will begin inside Iran. While the Russians promise that the Iranians will not be able to use this plutonium in Iranian bombs, can we be assured that these promises will be honored? Would not it have been better to never begin plutonium production in Iran at all?

I am also concerned about new ideas coming from the administration on missile defense and the Russians. Long ago, President Clinton proposed U.S-Russian cooperation in space. That cooperation led to a dependence so that soon, the U.S. will lack any way to launch astronauts. We cannot send our own astronauts to our own space station without the permission of the Russians.

In discussions regarding this treaty, I learned that the administration is now planning to bring the Russians inside the missile defenses of NATO. Russia is the very nation that used missiles to attack Georgia—a country applying for membership in NATO. I am sure the Georgians would be uncomfortable at best seeing Russians manage the missile defense of their little nation.

The U.S. offer to bring the Russians into NATO's missile defenses was embodied in an offer at the recent NATO conference in Lisbon. Nearly all Americans are fully aware of Russian spying against the United States military for the last 70 years. We know that Russia has one of the most active cyber-attack networks on the planet operating against U.S. networks. It would seem that a proposal to bring the Russians into the missile defense system of

NATO would introduce powerful new opportunities for espionage against us, as well as a greater understanding of our defense capabilities and weaknesses.

Imagine a Russian officer in a NATO missile defense center. He will soon learn when our system is alerted, how it processes information, what our response times are and the estimated accuracy of our interceptors. These are the things he would learn during his first week inside our operations center. We can only imagine what else he would learn over the coming years.

Remember that the warning information from NATO is critical to the defense of the United States. If the Russians managed to spoof or block critical NATO missile warning data, then U.S. commanders defending our homeland would become weaker, not stronger due to Russian presence in NATO missile defense centers.

Recall that missile combat is the ultimate ''come as you are'' affair. In a struggle between continents, the battle will be joined within 30 minutes. When submarine or medium-range missiles are employed, battle can start in as little as 10 minutes. If we have Russians in the system who found American weaknesses or deployed problems, U.S. commanders will have only minutes to diagnose and fix those problems before the gravest consequences befall our people and allies.

The next Congress will favor missile defense programs to a far greater degree than this one. I plan to encourage this body and especially the House with legislation to deny funding for any effort to bring Russians into the missile defenses of NATO or the United States.

I respect the opinions of Senators on both sides of this question. It is my judgment that safety of the American people is better off if we work to eliminate the new dangers of the 21st century rather than focus on the old agreements of the 20th century. In my view, the growing dangers of Iran and North Korea threaten the American people most. Therefore, the missile defense programs of the United States and our allies take precedence over an agreement whose protocol limits our defenses by acknowledging the need to preserve the ability of Russia to attack the United States.

While most of us were born in the 20th century and we loved black and white TV, the ''Ed Sullivan Show'' and the ''Honeymooners,'' we recognize that time has passed and we must adapt to the new world of the Internet, Ipad and Ichat. The 20th century doctrine of nuclear Mutually Assured Destruction against the Soviet Union is part of our past and not part of a future involving Taepo Dong II missiles from North Korea and Shahab III missiles from Iran.

I would urge the administration to devote the time and attention of our able diplomats to ending the Iranian nuclear program rather than this agreement that, while laudable in its very modest goals, went awry at the negotiating table.

Mr. President, I yield the floor.

Mr. LEVIN. Madam President, on April 8, 2009, President Obama and President Medvedev concluded negotiations, which had begun under President Bush, and signed the New START treaty. This new treaty is a key part of the reset of the U.S.-Russian relationship. Even though the Cold War ended 20 years ago, this relationship has been unclear; Russia is not an adversary but neither is it an ally. There have been divides and disagreements even though we share many common goals and interests. President Obama is rightly intent on moving the relationship in a more positive direction. Ratification of the New START treaty is an important part of this process.

On May 13 of this year, President Obama submitted the New START treaty to the Senate. In carrying out its responsibility the Senate Foreign Relations Committee, the Senate Armed Service Committee and the Senate Select Committee on Intelligence held a total of 20 hearings and 4 briefings. Seven hearings and three briefings were held by the Armed Services Committee. Even before the new treaty was submitted to the Senate, the Department of State provided the Senate National Security Working Group multiple briefings on the status of and issues discussed during negotiations.

It is now time for the Senate to provide its consent to ratification. As Admiral Mullen, the Chairman of the Joint Chiefs of Staff, said about the START treaty on December 12, ''this is a national security issue of great significance and the sooner we get it done the better.'' The Director of National Intelligence is also eager to get this treaty finished and restore the insight into Russian nuclear forces that this treaty will provide and that is so important for the intelligence community. Director Clapper said, ''the sooner, the better. From an intelligence perspective, we are better off with the Treaty than without it.'' Retired General Brent Scowcroft, the National Security Adviser for both Presidents Gerald Ford and George H.W. Bush, and a supporter of the Treaty, said, ''to play politics with what is the fundamental national interest is pretty scary stuff.''

Some have suggested that this new treaty should not be taken up in this lameduck session of the 111th Congress. I couldn't disagree more. Almost as soon as this session of Congress began, the President announced his intent to complete negotiations on the new strategic arms agreement to replace the START I treaty. Various Senate committees of this Congress and the Senate National Security Working Group of this Congress were briefed on numerous occasions by the negotiating team on the new treaty. This Congress got the updates on the progress and the issues and this Congress provided guidance along the way. The committees of this Congress held 20 hearings and briefings on this new treaty. This Congress hosted several all-Member briefings including one such session with the Director of National Intelligence, James Clapper, to get his views on the importance of the treaty. The next Congress will not have the benefit of all that work and insight. It is in fact the obligation and the duty of this Congress to take up this treaty.

When President Obama submitted the START treaty to the Senate for consideration he made six key points.

The treaty will enhance the national security of the United States.

The treaty mandates mutual reductions and limitations on the world's two largest nuclear arsenals.

The treaty will promote transparency and predictability in the future strategic relationships of Russia and the United States.

The treaty will enable each party to the treaty to verify that the other party is complying with its obligations through a regime of onsite inspections, notifications, comprehensive and continuing data exchanges, and provisions for unimpeded use of national technical means.

The treaty includes detailed procedures for elimination or conversion of treaty accountable items, and

The treaty provides for the exchange of certain telemetric information on ballistic missile launches.

Equally important to this discussion is what the START treaty does not cover.

It does not limit U.S. missile defense plans and programs.

It does not limit U.S. conventional prompt global strike programs.

It does not provide authority within the treaty to modify the terms and conditions of the treaty without the advice and consent of the Senate.

It does not constrain in any way the ability of the United States to modernize the nuclear weapons complex, modernize, maintain, or replace strategic delivery systems, or the ability to ensure that the stockpile of U.S. nuclear weapons remains safe, secure, and reliable.

It also does not cover nonstrategic nuclear weapons—often referred to as tactical nuclear weapons. The START treaty covers, as have all previous nuclear arms reduction treaties, strategic offensive nuclear arms. Dealing with tactical nuclear weapons is certainly an area of arms control that needs to be addressed but has proved elusive to previous administrations, Democratic and Republican. It remains to be addressed.

The START III treaty was to have covered these weapons but when the START II treaty, which was signed by President George H.W. Bush and Russian President Boris Yeltsin in 1993, was not ratified, any hope of addressing tactical nuclear weapons in a START III treaty died along with the START II treaty. 17 years later President Obama is trying to get nuclear

arms reductions back on track, by resuming discussions with Russia and signing the START treaty. Hopefully, entry into force of this START treaty will allow the United States and Russia to discuss an agreement on tactical nuclear weapons. While getting an agreement to limit tactical nuclear weapons will be very difficult, without ratification of the New START treaty, it will be impossible.

Because this treaty does not require any significant reductions in either U.S. nuclear weapons or delivery systems, it is a fairly modest treaty.

The so-called Moscow Treaty, which was signed in 2002 by President George W. Bush and Russian President Boris Yeltsin, limited both Russia and the United States to a range of operationally deployed nuclear warheads by the year 2012. Under the Moscow Treaty, each side could have between 1700 and 2200 total operationally deployed nuclear weapons. Russia has already met this goal and the United States is very close. Under the START treaty, each side will have no more than 1550 deployed nuclear weapons, a reduction of just 150 weapons below the Moscow Treaty. The START treaty does not limit the number of nondeployed nuclear weapons, an issue of importance to the Commander of the U.S. Strategic Command, GEN. Kevin Chilton.

The limits in this treaty were agreed to after careful analysis by U.S. military leadership, particularly GEN Kevin Chilton, the Commander of the U.S. Strategic Command and the man responsible for these strategic systems.

At a hearing before the Armed Services Committee on July 20, 2010, GEN Chilton stated that the force levels in the treaty meet the current guidance for deterrence for the United States. That guidance was laid out by President George W. Bush

> The options we provided in this process focused on ensuring America's ability to continue to deter potential adversaries, assure our allies, and sustain strategic stability for as long as nuclear weapons exist. This rigorous approach, rooted in deterrence strategy and assessment of potential adversary capabilities, supports both the agreed-upon limits in New START and recommendations in the Nuclear Posture Review (NPR).

The strategic deployed forces allowed under the treaty will ensure the retention of the nuclear triad—all three delivery legs of the triad, bombers, SLBMs, and ICBMs. On that point GEN Chilton was very clear, saying ''We will retain a triad of strategic nuclear delivery systems.''

Secretary of Defense Gates has also been very clear that the nuclear triad will be maintained. In an op-ed in May in the Wall Street Journal, Secretary Gates said the New START treaty ''preserves the U.S. nuclear arsenal as a vital pillar of our nation's and our allies' security posture. Under this treaty the U.S. will maintain our powerful nuclear triad . . . and we retain the ability to change our force mix as we see fit.''

Some have said that the United States will have to make significant reductions to reach the force levels under the treaty and that the Russians will have to make no reductions. According to GEN Chilton this argument is a distraction. At an Armed Services Committee hearing GEN Chilton commented on the lower level of Russian forces and said:

> New START limits the number of Russian ballistic missile warheads that can target the United States, missiles that pose the most prompt threat to our forces and our nation. Regardless of whether Russia would have kept its missile force levels within those limits without a New START Treaty, upon ratification they would now be required to do so.

While the START treaty will also not require significant reductions in the number of U.S. strategic delivery systems, there will be some reductions but not for 7 years. More importantly the START treaty will provide certainty for both Russia and the United States as to the size of the deployed nuclear force of the other. This is particularly important to the United States because Russia is now below the proposed delivery system limits of the START treaty, but has plans to build the number of strategic delivery systems. It is very much in the interest of the United States to have a cap on that build-up. An unrestrained build up would quickly bring back the ghosts and burdensome costs of the Cold War.

Under this new treaty, Russia and the United States will each have a total of 800 deployed and nondeployed ICBM launchers, SLBM launchers, and heavy bombers equipped for nuclear armaments, and 700 deployed ICBMs, deployed SLBMs and deployed heavy bombers equipped for nuclear armaments. The treaty does not limit nondeployed nuclear warheads, nondeployed ICBMs, nondeployed SLBMs, or heavy bombers that are not equipped for nuclear armaments. This is particularly important for the B–1B bomber fleet, as those airframes have not been in nuclear service for many years and will not be counted under the START treaty when simple modifications are completed.

This START treaty brings a practical approach to strategic systems and counts real delivery systems and real warheads. Over the years, the old START I treaty had resulted in exaggerated nuclear force numbers. For instance, under the old START I treaty, the four *Ohio* class submarines that have been converted to conventional use, were still counted as 96 deployed SLBMs and 768 deployed nuclear warheads. These exaggerated force structure levels have led to uncertainties for military planners and increased costs for the United States. Under this treaty they will not be counted.

One of the additional benefits of this START treaty is that the treaty provides a clear mechanism to remove systems from being counted under the treaty. The ability to clearly and easily remove systems, such as heavy bombers from under the treaty, is also of great importance to General Chilton, the Commander of the U.S. Strategic Command.

For example the United States currently has 76 B–52 bombers and 18 B–2 bombers, a total of 94 nuclear capable bombers. Under the current plan for implementing the treaty there will be up to 60 nuclear capable bombers. The remaining 34 can be converted to conventional only capability and will no longer count under the treaty. They do not have to be destroyed. I think this fact is often misunderstood and there may be an impression that the 34 bombers will have to be destroyed under the treaty. That is not the case.

This past May, Secretary of Defense Gates wrote an op-ed in the Wall Street Journal. Drawing on his long history and involvement with strategic arms control agreements, which dates back to 1970, Secretary Gates said that the question is always the same for each treaty: ''Is the United States better off with an agreement or without it?'' With respect to the START Treaty Secretary Gates' answer to the question is unequivocal: ''The United States is far better off with this Treaty than without it.''

That is also the issue now before the Senate. Is the United States better off with this START treaty? The 20 hearings and 4 briefings have clearly demonstrated that it is.

In that same op-ed, Secretary Gates emphasized the current state of affairs that has existed since the end of December 2009 when the START I treaty expired. Since that time, there has been no verification and inspection regime, no visibility into the Russian strategic programs, and no limits on delivery vehicles. As the Secretary said:

> Since the expiration of the old START Treaty in December 2009, the U.S. has had none of these safeguards. The new treaty will put them back in place, strengthen many of them, and create a verification regime that will provide for greater transparency and predictability between our two countries, to include substantial visibility into the development of Russian nuclear forces.

This rigorous inspection and verification regime, which when coupled with our national technical means, will allow this treaty to be monitored and verified. Nevertheless there has been an argument made that Russia cheated on the START I treaty and therefore we shouldn't ratify the new treaty. According to the State Department that is simply not the case.

In testimony before the Armed Services Committee in July, Assistant Secretary of State Rose Gottemoeller said, regarding the State Department's 2010 Treaty Compliance Report:

> I want to point out that Russia was in compliance with START's central limits during the Treaty's life span. Moreover, the majority of compliance issues raised under START were satisfactorily resolved. Most reflected differing interpretations on how to implement START's complex inspection and verification regime.

The old START I treaty was a complicated and complex treaty, many of

the lessons learned from the inspections during the course of that treaty have been incorporated into the new treaty. There were issues on both sides. According to the 2010 Treaty Compliance Report:

The United States stated on several occasions to our Treaty partners that the United States was compliant with the Treaty; however as might be expected under a verification regime as complex as START, the United States and Russia developed a difference of views with regard to how the sides implemented certain Treaty requirements.

This is not the same as cheating.

Our senior military leaders believe the new treaty can be monitored and verified and that if Russia did cheat there is high confidence that any cheating could be detected before such cheating rose to a level of military significance. General Chilton said during testimony before the Armed Services Committee, ''New START will reestablish a strategic nuclear arms control verification regime that provides access to Russian nuclear forces and a measure of predictability in Russian force deployments over the life of the treaty.''

In a discussion on the ability to detect cheating I asked General Chilton, ''In other words, the verification provisions give you confidence that Russia cannot achieve a militarily significant advantage undetected?'' General Chilton said: ''Yes, that's correct.''

Assistant Secretary of State Rose Gottemoeller, in her July testimony before the Armed Services Committee, made it clear that any cheating could be detected before it became militarily significant. She also believes that the United States is well positioned to deter cheating as well. In that regard she said:

Deterrence of cheating is a key part of the assessment of verifiability, and is strongest when the probability of detecting significant violations is high, the benefits to cheating are low, and the potential costs are high. We assess that this is the case for Russia cheating under the New START Treaty.

One of the areas on which we have had substantial discussion is missile defense. The U.S. missile defense program isn't covered or limited by the New START treaty. It—the missile defense program—has nevertheless become a major focus of the debate on the treaty. Our missile defense programs and policies are based on developing and fielding the missile defense capabilities we need to meet the missile threats we face, not on any of these treaty matters. The New START treaty does not limit the missile defense capabilities we need.

Secretary of Defense Gates, in testimony before the Armed Services Committee on June 17, said:

The Treaty will not constrain the United States from deploying the most effective missile defenses possible, nor impose additional costs or barriers on those defenses. I remain confident in the U.S. missile defense program, which has made considerable advancements, including the testing and development of the SM–3 missile, which we will deploy in Europe.

Secretary of State Clinton, in testimony before the Armed Services Committee on June 17 said:

This Treaty does not constrain our missile defense efforts. I want to underscore this because I know there have been a lot of concerns about it and I anticipate a lot of questions.

During that same hearing Secretary Clinton went on to say:

The Treaty's preamble does include language acknowledging the relationship between strategic offensive and defensive forces, but that's simply a statement of fact. It too does not in any way constrain our missile defense programs.

In a July 20 hearing before the Armed Services Committee, GEN Kevin Chilton, the Commander of the U.S. Strategic Command said:

As the combatant command(er) also responsible for synchronizing global missile defense plans, operations, and advocacy, I can say with confidence that this treaty does not constrain any current or future missile defense plans.

Assistant Secretary of State, Rose Gottemoeller, the lead negotiator of the Treaty, in testimony before the Senate Foreign Relations hearing on June 10, said:

The Treaty does not constrain our current or planned missile defense and, in fact, contains no meaningful restrictions on missile defenses of any kind.

Later, on July 29, in testimony before the Armed Services Committee, Assistant Secretary Gottemoeller said:

There were no—and I repeat—no secret deals made in connection with the New START Treaty, not on missile defense nor on any other issue.

As the Ballistic Missile Defense Review report made clear, the administration is pursuing a variety of systems and capabilities to defend the homeland and different regions of the world against missile threats from nations such as North Korea and Iran. A good example of that is the phased adaptive approach to missile defense in Europe. The Secretary of Defense and the Joint Chiefs of Staff recommended it unanimously. It is strongly supported by our NATO allies. The November 20, NATO Lisbon Summit Declaration says that ''the United States European Phased Adaptive Approach is welcomed as a valuable national contribution to the NATO missile defense architecture.''

During the NATO Lisbon Summit NATO announced its own decision to build a missile defense system to protect European populations and territory against missile attack, consistent with the phased adaptive approach. The phased adaptive approach is designed to provide effective missile defense capabilities in a timely manner against existing or emerging Iranian missile threats. Those are the missile threats faced by our military personnel, allies, and partners in Europe.

As the Secretary of Defense and numerous other officials have made clear, the treaty does not limit our missile defense plans or programs. The Armed Services Committee also knows that, and our authorization bill stated that fact. Section 221(b)(8) of the Ike Skelton national Defense authorization bill for fiscal year 2011 that we passed this morning in the Senate states, ''there are no constraints contained in the New START Treaty on the development or deployment of effective missile defenses, including all phases of the Phased Adaptive Approach to missile defense in Europe and further enhancements to the Ground-based Midcourse Defense system, as well as future missile defenses.''

To be very clear there is one provision in the treaty that prohibits each side from using ICBM silos or SLBM launchers for missile defense interceptors, and vice versa. But using these silos and launchers are not in our missile defense plan and should not be in our plan because it would be very much against our interest to use strategic missile interceptor silos for ballistic defense purposes. It would be more expensive than building new silos, the strategic missile silos aren't in the right locations to defend against missiles from North Korea, and most importantly, it would be destabilizing to launch ballistic missile interceptors from ICBM silos or SLBM launchers.

Lieutenant General O'Reilly, the Director of the Missile Defense Agency, has made clear, we don't want, need, or plan to use such silos for missile defense purposes. In a June 16 hearing before the Senate Foreign Relations Committee, Lieutenant General O'Reilly made it very clear saying ''replacing ICBMs with ground-based interceptors or adapting the submarine-launched ballistic missiles to be an interceptor would actually be a setback—a major setback—to the development of our missile defenses.''

That one limitation has no impact on our plans for missile defense, plans that are more effective and less expensive than converting ICBM or SLBM silos to missile defense use.

There is one other area of the many that have been discussed in connection with the START treaty that I would like to raise, and that is modernization of the nuclear weapons complex and maintaining the ability to certify annually that our stockpile remains safe, secure and reliable.

Shortly before Congress instituted a moratorium on nuclear weapons testing in the early 1990s, the United States established a stockpile stewardship program to design and build advanced scientific, experimental, and computational capabilities to enable the annual certification process for the nuclear weapons. This program has been very successful. Beginning in 2005, however, support for the program started to wane and the budgets for nuclear activities started to go down. Without enough money the weapons complex was forced to have layoffs at the nuclear weapons laboratories and the production facilities, to defer

maintenance on many important buildings and facilities, to delay key acquisitions, and to delay design and construction of the last two major new production facilities. President Obama, in his fiscal year 2011 budget request and in the plans for the future years, has turned this situation around by providing $4.1 billion more over the next five years than previously planned. This level of funding is unprecedented since the end of the Cold War.

President Obama laid out his funding plan for the nuclear enterprise in the November Section 1251 report, a report that would provide an additional $1.2 billion over 2 years, a 15 percent increase and a total of $41.6 billion for fiscal years 2012–2016 for the National Nuclear Security Administration.

With these amounts has the administration committed enough to modernization and sustainment of the complex and the life extension programs for the nuclear stockpile? The directors of three nuclear weapons laboratories all say yes. In a joint December 1, 2010, letter to Senators KERRY and LUGAR, the three Directors of the nuclear weapons laboratories said that the finding level proposed in the section 1251 report '' would enable the laboratories to execute our requirements for ensuring a safe, secure, reliable, and effective stockpile under the Stockpile Stewardship and Management Plan.''

The Administrator of the National Nuclear Security Administration, under both President George W. Bush and President Obama, Tom D'Agostino, said, in testimony before the Armed Services Committee in July:

> Our plans for investment in and modernization of the Nuclear Security Enterprise—the collection of NNSA laboratories, production sites, and experimental facilities that support our stockpile stewardship program, our nuclear nonproliferation agenda, our Naval nuclear propulsion programs, and a host of other nuclear security missions—are essential irrespective of whether or not New START is ratified.

The Senate Foreign Relations Committee took the right approach on this issue in its resolution of ratification by not making entry into force contingent on a certain funding level, but by including a sense of the Senate that the United States is committed to a robust stockpile stewardship program.

The list of both Republican and Democratic supporters of this Treaty is broad and strongly bipartisan, including eight former Secretaries of State—Madeleine Albright, Warren Christopher, Colin Powell, Condoleezza Rice, James Baker, Lawrence Eagleburger, George Schultz, Henry Kissinger—four former Secretaries of Defense—Harold Brown, Frank Carlucci, Bill Cohen, Bill Perry, and Jim Schlesinger—seven former commanders of the U.S. Strategic Command, President George H.W. Bush, President Clinton and a long list of national security experts.

Our NATO allies support this treaty and have urged us to ratify it without delay. NATO Secretary General Anders Fogh Rassmussen said at the NATO summit in Lisbon in November:

> A ratification of the START Treaty will contribute strongly to an improvement of the overall security environment in the Euro-Atlantic area, and all members of the NATO-Russia Council share the view that an early ratification of the START Treaty would be to the benefit of security in the Euro-Atlantic area. I'd also have to say that it is a matter of concern that a delayed ratification of the START Treaty will be damaging to the overall security environment in Europe. So we strongly urge both parties to ratify the START Treaty as early as possible.

I believe that the Senate should consent to ratification of the New START treaty and that ratification of this treaty is in the national security interest of the United States. Ratification of the New START treaty will provide predictability, confidence, transparency and stability in the United States-Russian relationship. The New START treaty will make us safer today, and leave a safer world for our children and grandchildren. The Senate should ratify the New START treaty now.

Mrs. FEINSTEIN. Madam President, I am very pleased that the Senate is about to ratify the New START treaty—I hope and believe with a very solid bipartisan vote.

This really is a historic moment. This is the biggest arms control treaty in 20 years, and the most important foreign policy action the Senate will take this Congress.

This is absolutely the right thing to do. It is important to our national security and it is critical to uphold America's place in the world community.

As I have said many times, the arms reductions in this treaty are modest. New START requires a 30 percent reduction in warheads from the limits set out in the Moscow Treaty in 2002 to 1,550 on each side, but both the United States and Russia have been reducing their strategic stockpiles since then.

The real importance of this treaty comes from the monitoring provisions, confidence-building measures, and the strengthened relationship between two of the world's major powers.

We have not had inspectors at Russian nuclear facilities for 13 months. We have not had data exchanges on the size and deployment of Russian forces. Russia has had the freedom to block our national technical means to monitor their forces. Apart from our national technical means, we are now blind.

With this treaty, we will benefit from these measures and others. The Senate has discussed the monitoring and verification provisions at length during this debate—in open and closed session—and it has been made very clear that this treaty greatly strengthens our intelligence community's ability to monitor and assess Russian strategic forces.

As Director of National Intelligence Clapper has said, the sooner we ratify this treaty, the better. I am very pleased that the Senate is acting now, before the end of the year and the congressional session, to give the executive branch these tools.

With the ratification of this treaty, the Senate also makes clear that the United States is willing and able to make good on its foreign policy promises and to act in the best interests of our country and of the world.

Following ratification in the Russian Duma, the United States and Russia will begin the next round of arms control and transparency.

I hope and I believe many Senators have expressed their desire, that this will lead to further arms control negotiations to reduce further the level of strategic arms and to address tactical nuclear weapons and other delivery mechanisms.

The ratification also maintains, and hopefully will build on, the improving relationship between our two countries and our two young Presidents.

We have enjoyed strong cooperation this year, over Afghanistan, over Iran, and—according to a letter I received from President Obama on Monday—over the tense situation on the Korean Peninsula.

In a world of asymmetric threats, we need friends and allies more than ever. This treaty moves us in this direction—with Russia and with the Eastern European nations that are strongly in support of the treaty.

Before closing, I want to congratulate and thank my good friend from Massachusetts. He has spent an incredible amount of time considering this treaty in the Foreign Relations Committee, preparing the resolution of ratification and in managing this floor debate.

He has done a fabulous job, and I really want to thank him for all his effort and his cooperation with me through this entire process.

I would also like to thank the many administration officials for their assistance in my consideration of this treaty, all of whom have spent time in my office over the past year. They include:

> Assistant Secretary Rose Gottemoeller, our lead negotiator; Admiral Mike Mullen, Chairman of the Joint Chiefs of Staff; General James Cartwright, Vice Chairman of the Joint Chiefs; Tom D'Agostino, Administrator of the National Nuclear Security Administration; and Director of National Intelligence Jim Clapper.

Mrs. SHAHEEN. Madam President, today, the Senate has a historic opportunity to follow in a long history of strong, bipartisan support for reducing the threat posed by nuclear weapons around the globe. We have a chance to strengthen American national security and restore American leadership on the nuclear agenda. I am hopeful that the Senate will choose the right path and vote in favor of ratification of the New START treaty.

I want to thank Senators KERRY and LUGAR for their tireless, impressive work on the New START treaty.

Former Secretary of State Dr. Henry Kissinger, in explaining his support for the New START Treaty, told our committee earlier this year that the Senate's decision on New START ''will affect the prospects for peace for a decade or more. It is, by definition, not a bipartisan, but a nonpartisan, challenge.'' Senators KERRY and LUGAR have done everything in their power to make this a nonpartisan effort, and I commend them and their staff for their excellent work.

I want to also take a moment to thank the negotiators, Rose Gottemoeller, Ted Warner, their colleagues at the White House, and all the civil servants responsible for negotiating this agreement. Each of them has a lifetime of experience and impressive expertise on nuclear issues, and they all worked hard to navigate this difficult treaty process. America was well-served by your efforts, and we thank you for your leadership.

At the very beginning of this long process, Secretary of Defense Robert Gates asked the Senate a very important question: Is the United States better off with an agreement or without it? Today, the Senate has to answer this specific question.

We have had a very long, thorough, and vigorous debate, and some Senators may not agree with everything in the treaty text before us, and some may have problems with the process by which we are here today, but let's be clear. The vote today is not about what each of us might have done differently. The vote today is not about abstract numbers or theoretical point scoring. The historic vote today is simple: Do you believe the United States and the world are better off with an agreement or without one?

The Senate—led in a bipartisan fashion by Senators KERRY and LUGAR has done an impressive job of meeting its constitutional responsibilities, and I am proud of the work we have done in giving our advice and consent to the New START treaty. The involvement of the Senate over the last year and a half and the debate we have undertaken have been worthy of the world's greatest deliberative body.

I have heard from many of my colleagues that the Senate should not be a rubber stamp in ratifying the New START Treaty—as if to suggest we have not taken our constitutional responsibilities seriously during this process. This could not be further from the truth.

First, the Senate's influence can be seen throughout the treaty document. A number of Senators met with negotiators numerous times prior to the treaty's completion, and some even traveled to Geneva during the negotiations. In many respects, from the very beginning, our negotiators were operating within a framework and boundaries as set by Senators involved in the process. The treaty itself is really a product of collective input from both the executive and congressional branches. The unique insight and input this Congress has provided throughout the negotiation process could not be replicated in any future consideration.

In addition, since we received the treaty, the Senate has done its job and has thoroughly considered this agreement. The Senate Foreign Relations Committee held 12 hearings and heard testimony from 21 expert witnesses. The administration has answered over 900 questions for the record. We have also had more floor time for amendments and consideration than any other treaty of its kind. Our vigorous debate on the floor has added nuance and depth to this already thorough body of work.

It is also important to note that the Senate, in providing its advice and consent, actually writes and approves the resolution of ratification to go along with the treaty. This is not an insignificant document. This is the Senate's opportunity to influence the treaty's future interpretation and implementation and our chance to provide the declarations, understandings, and conditions to the treaty. The resolution succinctly and explicitly expresses the Senate's views on New START, and our resolution actually provides some strong statements with respect to many of the concerns raised by critics of the treaty.

For example, on missile defense, the resolution reads very clearly that the United States remains committed to missile defense, and the New START treaty does not constrain that commitment:

> The New START Treaty and the . . . unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the U.S. currently plans or that might be required . . . to protect U.S. Armed Forces and U.S. allies from limited ballistic missile attack.

In addition, the DeMint amendment on missile defense in the resolution reads:

> The United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense capable of countering missiles of all ranges The United States is committed to improving U.S. strategic defensive capabilities both quantitatively . . . and qualitatively and such improvements are consistent with the Treaty.

On tactical nuclear weapons, the resolution reads:

> The Senate calls upon the President to pursue . . . an agreement with Russia that would address the disparity between tactical nuclear weapons stockpiles . . . and would secure and reduce tactical nuclear weapons in a verifiable manner.

Finally, on strategic-range, non-nuclear weapon systems:

> Nothing in the New START Treaty restricts U.S. research, development, testing, and evaluation of strategic-range, non-nuclear weapons . . . [or] prohibits deployments of strategic-range, non-nuclear weapon systems.

The fact is that the Senate has done its constitutional duty and has thoroughly debated and considered this important agreement.

Adding to our extensive internal debate, countless outside experts and former officials have also weighed in on this treaty. New START has the unanimous backing of our Nation's military and its leadership, including Secretary Gates, the Chairman of the Joint Chiefs, the commander of America's Strategic Command, and the Director of the Missile Defense Agency. America's military establishment is joined by the support of every living Secretary of State—from Secretary Jim Baker to Secretary Condoleezza Rice—as well as five former Secretaries of Defense, nine former national security advisors, and former Presidents Clinton and George H.W. Bush. The overwhelming consensus from these foreign policy and national security heavyweights has been clear: New START is in America's national security interests.

I think it is important to take a step back and remember the broader picture of the decision before us today. We are no longer talking about abstract numbers, intangible ideas or questions of process. We are talking about real nuclear weapons. We are talking about thousands of the most dangerous weapons in the history of mankind—weapons actually aimed directly at American cities.

Our arsenals are composed primarily of nuclear weapons each yielding between 100 and 1,200 kilotons of power. To give you a sense of the power of these weapons, the nuclear weapon dropped on Hiroshima yielded around 13 kilotons of power. After New START, the United States and Russia will still be allowed an arsenal of 1,550 warheads capable of leveling cities more than five times the size of New Hampshire's largest city of Manchester.

Now, I am under no illusions that the ratification of the New START treaty will somehow by itself meet the threats posed by nuclear weapons around the globe. President Kennedy told us that attainable peace will be ''based not on a sudden revolution in human nature but on a gradual evolution in human institutions'' and ''peace must be the product of many nations, the sum of many acts.'' He said:

> No treaty, however much it may be to the advantage of . . . all can provide absolute security . . . But it can . . . offer far more security and far fewer risks than an unabated, uncontrolled, unpredictable arms race.

New START is a step away from this ''unabated, uncontrolled, unpredictable'' environment.

As the first Nation to invent and then use nuclear weapons, the United States has spent the majority of the last half century trying to reduce the risk they pose. Over five decades ago, President Eisenhower committed the United States to meeting its special responsibilities on the nuclear threat. He said:

The United States pledges before you—and therefore before the world—its determination to help solve the fearful atomic dilemma—to devote its entire heart and mind to find the way by which the miraculous inventiveness of man shall not be dedicated to his death, but consecrated to his life.

Eisenhower's early commitment and America's special responsibility have led to unbroken U.S. leadership in the world on the nuclear agenda. The Nuclear Non-Proliferation Treaty—the cornerstone of global nonproliferation efforts—was born out of President Eisenhower's ''Atoms for Peace'' vision. The original START treaty was a culmination of President Reagan's entreaty to ''trust, but verify'' Russia and its actions. The U.S. Cooperative Threat Reduction Program, which has led to the deactivation of over 7,500 Russian nuclear warheads, was the result of two visionary and farsighted Senators named Nunn and LUGAR.

American leadership on the nuclear agenda makes the world safer. Period.

As Secretaries Kissinger, Schultz, Perry, and Senator Nunn told us in their seminal 2007 opinion piece:

The world is now on the precipice of a new and dangerous nuclear era . . . Nuclear weapons today present tremendous dangers but also a historic opportunity. U.S. leadership will be required to take the world to the next stage—to a solid consensus for reversing reliance on nuclear weapons globally as a vital contribution to preventing their proliferation into potentially dangerous hands.

The New START treaty should be the next step on the path of American leadership on the nuclear agenda. If we turn our back on this treaty at this time, we are turning our back on a generation of bipartisan, American leadership in this field, and we cede the field to a more dangerous and more uncertain world.

The debate over New START is now over, and the only choice left before us is this treaty or nothing. Each of us today will decide—yes or no—whether we think we are better off with a treaty or without one.

I hope we will vote on the side of the overwhelming majority of foreign policy and national security experts who have called on us to support this treaty. I hope we will vote on the side of our unanimous military and intelligence communities. I hope we will vote on the side of a legacy of American leadership on the nuclear agenda.

I am hopeful we will follow in the footsteps of the Senate's strong bipartisan history and ratify the New START treaty today.

Mr. KOHL. Madam President, I rise today to support ratification of the New Strategic Arms Reduction Treaty, or New START. This treaty continues the bipartisan arms control framework first proposed by President Ronald Reagan and implemented by President George H.W. Bush with the START I and START II treaties. President George W. Bush continued this work with the Moscow Treaty. Now President Obama has taken another important step to address the dangers of nuclear weapons with the New START treaty.

Stopping the spread of nuclear weapons and reducing existing nuclear stockpiles is critical to our national security. New START helps accomplish this goal by placing responsible limits on nuclear warheads and delivery vehicles, while still enabling the United States to maintain a credible nuclear deterrent.

New START also reestablishes regular onsite inspections of Russian nuclear facilities, which ended more than a year ago when the previous START treaty expired. The potential lack of safety, security, and controls of Russian nuclear weapons is a grave security risk, and there is no substitute for onsite inspections to address this threat.

I carefully considered the views of our military and diplomatic leaders in evaluating New START, and I am impressed by the breadth of bipartisan support for this treaty. The Secretaries of State, Defense, and Energy support New START. Our senior uniformed military leaders support New START, including the head of the Missile Defense Agency. Every living former Secretary of State, Republican or Democrat, supports New START.

I commend my colleagues on the Senate Foreign Relations Committee for the extensive work they have done to consider the New START treaty. They have produced a thorough record on the merits of this treaty, which enables every Senator to cast an informed vote. After reviewing this record, I am proud to cast my vote in favor of ratifying New START.

Mr. GRASSLEY. Madam President, before I begin my remarks on the New START treaty, I would like to point out to my colleagues that in 2002, I voted in favor of the Moscow Treaty. I was also one of 93 Senators who voted in favor of START I in 1992.

I recognize the importance of maintaining a positive and cooperative relationship with Russia. The proponents of the New START treaty argue that this treaty is necessary to continue the goodwill between our countries and the much-touted ''reset'' in our relations. More importantly to me, however, are the merits of the treaty itself. The Senate should not simply ratify this treaty to appease Russia or as a signal of cooperation with them. The treaty should be considered based on its impact on our national security and the security of our allies.

A nuclear arms control treaty can be evaluated based on the level of parity it brings to the two parties. In this regard, I believe this treaty falls short. The fact is, while this treaty places new limits on warheads, as well as deployed and nondeployed delivery vehicles, Russia is already below the limit on delivery vehicles. The treaty primarily imposes new limits on the U.S., while requiring modest, if any, reductions on the Russian side. Also alarming is that this treaty is silent on the matter of tactical nuclear weapons. It is believed that Russia has a 10-to-1 advantage over the U.S. in terms of tactical nuclear weapons.

The administration has argued that this treaty is necessary to provide strategic stability. However, if we are reducing our strategic weapons without regard to Russia's overwhelming advantage on tactical nuclear weapons, I question whether this reduction isn't weakening strategic stability. It should also be mentioned that some proponents of the New START treaty were critical of the 2002 Moscow Treaty for failing to reduce Russian tactical nuclear weapons. I believe our leverage with the Russians to begin placing meaningful limits on tactical nuclear weapons existed with this treaty. Now, I see no clear path to negotiating reductions in tactical nuclear weapons.

Like many of my colleagues, I have serious concerns about the inclusion of references to and limitations on U.S. plans for missile defense. I don't believe there should be a connection between strategic nuclear weapons reductions and our plans for missile defense. I am equally troubled that Russia issued a unilateral statement at the treaty's signing stating that the treaty ''may be effective and viable only in conditions where there is no qualitative or quantitative build-up in the missile defense system capabilities of the United States of America.''

It is positive that the Resolution of Ratification makes a strong statement that the treaty does not limit the deployment of U.S. missile defense systems, other than those contained in article V. It also says that the Russian statement on missile defense does not impose a legal obligation on the United States. While I would have preferred that this treaty not contain any language on missile defense, I appreciate the work of the Foreign Relations chairman and ranking member to include this language in the ratification resolution. But the fact remains, this language is simply our opinion and is nonbinding.

This treaty reverses the gains made in the Moscow Treaty which de-linked offensive and defensive capabilities. Although a modified amendment on missile defense to the resolution of ratification was agreed to today, I am disappointed that the Senate could not agree to the amendment offered by Senator MCCAIN which would have stricken the language in the treaty's preamble that arguably gives Russia a say on our future missile defense plans.

Finally, I also share the serious concerns related to the issue of verification. It has been the subject of much debate, and deservedly so. I agree with the sentiment that as our deployed strategic nuclear weapons are reduced, it becomes more and more critical that the remaining weapons can be relied upon. As the number of weapons is reduced, it becomes more important that we know that the Russians are abiding by the limits of the treaty.

After reviewing the classified material presented by Senator BOND, ranking member of the Senate Intelligence Committee, I have serious reservations about the new verification regime contained in the treaty. Although former Secretary of State James Baker supports ratification of the treaty, he stated that the verification mechanism in the New START treaty ''does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I.''

I do regret that without a treaty in place that there is no verification regime, and no U.S. inspectors monitoring Russia's nuclear arms activities. It's important to point out, however, that the Obama administration had the ability to extend the verification regime for 5 years, as provided for in START I. But the Obama administration failed to act. The administration also insisted there would be a ''bridging agreement'' to continue verification until the entry into force of a successor agreement. This agreement was never completed either.

I am deeply disappointed that in these areas of concern, the Senate is simply being asked to be a ''rubberstamp'' rather than fulfill our constitutional obligation to provide our advice on these important matters. Had the advice of the Senate on these important issues been incorporated into the treaty, I believe it would have gained overwhelming bipartisan support. Without addressing these areas in a meaningful way, I am reluctantly unable to support it.

Mr. COONS. Madam President, I am pleased to join my colleagues in voicing my strong and unequivocal support for New START. I want to thank Senators KERRY and LUGAR for their leadership on this issue, and join them in urging the Senate to support ratification. New START will make America stronger and more secure by building on 30 years of U.S. global leadership on nuclear arms control and reduction. This is why it has been endorsed by national security leaders on both sides of the aisle, including every living Republican Secretary of State, 5 former Secretaries of Defense, 7 former commanders of the U.S. Strategic Command, the entire Joint Chiefs of Staff, 3 former Presidents, and all 27 of our NATO allies.

We simply cannot afford to postpone the vote until the 112th Congress and delay ratification any further. Military planners have confirmed that ratification is essential to U.S. security in an increasingly dangerous environment, and 73 percent of Americans support ratification according to one recent poll.

As the newest member of the Foreign Relations and Armed Services Committees, I did not have the luxury of receiving the wealth of information and perspective offered in the 18 public hearings and Senate deliberations on this issue. I have, however, received enough information from classified briefings to know this is a pressing national security matter of the highest order. As we approach a vote, I plan on following the strong advice of our military and national security leadership, as well as the will of the American people, in supporting New START.

New START will enhance U.S. intelligence gathering and restore inspections needed to monitor the Russian nuclear force. For more than a year, we have been deprived of such inspections due the expiration of the original treaty. While opponents of New START have highlighted the reduction in the total number of inspections, those which remain comprise the most robust strategic arms inspections regime in history. By increasing transparency between the United States and Russia, New START will enhance our mutual nuclear deterrent. This is just one example of why ratification is in America's best security interest.

In addition to reducing the total number of both American and Russian deployed strategic nuclear weapons to 1550, New START will limit the number of deployed delivery vehicles for nuclear warheads to 700. As we consider investing more than $85 billion over the next decade into modernizing our current nuclear arsenal, we must also consider the practical benefit of maintaining a smaller number of strategic nuclear weapons. These limits have been endorsed by our military planners because they are commensurate with our current and future defense needs. Moreover, reducing the number of deployed strategic warheads and delivery vehicles better positions us to invest the savings in nuclear modernization.

The United States and Russia share common threats and common interests, and, in the words of Vice President BIDEN, New START is a ''cornerstone of our efforts to reset relations with Russia.'' Over the past 2 years, cooperation between the United States and Russia has grown in areas such as supporting sanctions to thwart Iran's nuclear development and transferring essential supplies into Afghanistan. At this juncture, the Senate's failure to ratify New START could have far-reaching implications on such progress, including jeopardizing future cooperation in these critical areas.

As some of my colleagues propose altering the treaty, I want to voice my strong opposition to all amendments, as they would effectively kill the agreement by requiring renegotiation with Russia. In the future, we can address some of the issues raised during the amendment process—including Russia's extensive stockpile of tactical nuclear weapons—but these matters exceed the breadth of the treaty before us today. I also believe that we can achieve a missile defense cooperation agreement with Russia, but reaching an understanding on missile defense will be easier once we have established an agreed-upon limit to the number of deployed strategic nuclear weapons.

America must maintain its global leadership on nuclear arms control and nonproliferation, and it is our obligation as Senators to act now. It is time to look beyond politics and vote on principle, and I urge all Senators to join me in supporting ratification of New START because it is a domestic and global security imperative.

Ms. SNOWE. Madam President, I rise today to express my support for the New Strategic Arms Reduction Treaty, known as New START, which was signed by the United States and Russia on April 8 and transmitted for the advice and consent of the Senate on May 13. Since then, Chairman KERRY, with the unwavering support of Ranking Member LUGAR, has navigated the treaty through 18 hearings before the Senate Foreign Relations, Armed Services, and Intelligence Committees—and I commend the chairman for his determination to see this paramount accomplishment through to the finish.

Without equivocation, since his election to the U.S. Senate in 1976, Ranking Member LUGAR has been an overriding force of nature in reducing the threat of nuclear, chemical, and biological weapons—and his work with then-Senate Armed Services Chairman Sam Nunn to lay the groundwork for the deactivation of more than 7,500 of these dangerous weapons in the former Soviet Union is legendary. Throughout the negotiations and consideration of New START, Ranking Member LUGAR has once again demonstrated his incredible depth of knowledge and expertise on these issues, which has been of the utmost benefit to the Senate.

President George H.W. Bush and Soviet leader Mikhail Gorbachev signed the original START Treaty on July 31, 1991—5 months before the collapse of the Soviet Union. The agreement represented the culmination of more than 20 years of bilateral arms control agreements between our two nations.

Much has changed over what is almost two decades since the original START agreement was signed in Moscow. The world has witnessed the disintegration of the Soviet Union, the rise of terrorist organizations with nuclear weapons ambitions, and growing threats from hostile regimes in such locations as Tehran and Pyongyang. As a result, when START expired 1 year ago this month, we found ourselves at a crossroads—without the ability to inspect Russian missile silos, which, frankly, is unfortunate given that last year Senator LUGAR suggested that the administration obtain a short-term ''bridging agreement'' with the Russians to ensure there was not a verification gap between the expiration of START and approval of New START.

Yet despite this missed opportunity to secure a short-term bridging agreement, I believe the debate we have had in this body over the last 12 months has made clear that it is in our vital national interests to, first and foremost, maintain strategic stability between the United States and Russia—

the two countries that hold more than 90 percent of the world's nuclear weapons—and furthermore to upgrade the original START agreement to reflect the new realities of the post-Cold War era.

On the first point, I have supported New START's goal of reinstating a more stable, transparent, and legally binding mechanism based on proven methods for monitoring compliance with treaty provisions and deterring potential violations. For example, New START requires essential data exchanges detailing the numbers, types, and locations of affected weapons, mandates up to 18 short-notice on-site inspections each year to try and confirm information shared during such exchanges, and it calls for the parties to notify each other and to update the database whenever they move such forces between facilities.

Since the early years of nuclear weapons agreements between the United States and the Soviet Union, beginning with Strategic Arms Limitation Talks, known as SALT, in May 1972; to the Intermediate-Range Nuclear Forces, or INF Treaty, in December 1987 and the original START agreement in July 1991; our nations have gained from the structure and degree of transparency that these agreements provide. As former National Security Advisor and Secretary of State Henry Kissinger said in May, New START is ''an evolution of treaties that have been negotiated in previous administrations of both parties'' and ''its principal provisions are an elaboration'' of existing agreements. Secretary Kissinger went on to note that the continued absence of this vital agreement would undoubtedly ''create an element of uncertainty in the calculations of both adversaries and allies'' and have an ''unsettling impact on the international environment.''

In other words, without the comprehensive and overlapping system of inspections, notifications, and data exchanges that both the original START and New START provide, our strategic commanders and civilian leaders may be forced to position their assets in a way that anticipates the worst case scenario, which as we witnessed during many overwrought days of the Cold War is an incredibly precarious—and often more costly—approach in terms of the prioritization of our intelligence and defense resources. Therefore, I believe firmly that, when combined with our Nation's overhead intelligence assets, remote sensing equipment, and other classified methods, the New START agreement will provide our government better insight into the accuracy of Russia's declarations on the numbers and types of deployed and nondeployed strategic offensive arms subject to the treaty, thereby engendering greater confidence in our comprehension of the state of affairs, enhancing global stability and our security here at home.

Still, in addition to maintaining the framework of our nuclear arms reduction program with Russia, it is crucial that this treaty be thoroughly vetted to reflect the reality of the threats we face in the 21st century. Article II, section 2 of the Constitution states that the President ''shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur''—and as such we must make absolutely certain that questions regarding our ability to verify Russian compliance with New START's limits, to develop and deploy effective missile defenses, and to modernize our nuclear weapons complex, have been satisfactorily resolved. Senator KYL, in particular, has brought great value to this process—and I extol all of my colleagues for their dedication to meeting our constitutional responsibilities.

Among the most significant questions that have been raised are those that deal with our ability to monitor Russian compliance with the treaty's limits. As part of its overlapping monitoring and verification regimes, New START permits up to 18 short-notice on-site inspections at ICBM bases, submarine bases, and air bases each year. U.S. inspectors will use these inspections to help verify data on the number of warheads located on deployed ICBMs and deployed submarine launched ballistic missiles and the number of armaments located on deployed heavy bombers.

Over the course of this debate, some of my colleagues have questioned the utility and effectiveness of New START's on-site inspections. As a member of the Senate Select Committee on Intelligence, I have worked with my colleagues to scrutinize this proposed agreement and have closely reviewed the National Intelligence Estimate pertaining to this subject as well as a number of other classified reports. It is important to understand that we do not depend only on the treaty's monitoring and verification provisions to ensure the Russians are complying with the warhead limit and other clauses. To the contrary, the treaty is but one critical instrument which, as with the 1991 START agreement, is intended to augment information collected through our overhead assets, and via other technical tools that leverage the larger U.S. Intelligence system—known as our National Technical Means.

Since the treaty was transmitted to the Senate in May, the Intelligence Committee has conducted a comprehensive review, and my staff and I have questioned key officials, including the Director of National Intelligence Jim Clapper, former Secretary of Defense Bill Cohen, and Secretary Gates' Representative to Post-START Negotiations Dr. Ted Warner. Additionally, my staff has held classified discussions with former START inspection team members and delegates to the START Joint Compliance and Inspection Commission.

Consequently, I would underscore two significant areas of advancement where New START's verification and monitoring provisions will be distinctly different from its predecessor. First, under the original START agreement, the treaty database listed the number of warheads attributed to a type of ballistic missile, and each missile of that type counted as the same number of warheads. Notably, New START advances this standard by enabling our inspectors to in fact count the actual number of reentry vehicles deployed on the missile to confirm that it equals the number designated by the Russians for that particular weapon.

Secondly, New START includes the innovation that unique identifiers—which mean numeric codes—be affixed to all Russian missiles and nuclear-capable heavy bombers. Under the original START agreement, unique identifiers were applied only to Russian road-mobile missiles. As Ranking Member LUGAR has noted, while this does not insure a ''foolproof'' verification system, it will provide enhanced confidence and transparency under the Treaty structure.

Taken as a whole, I believe the treaty's notification requirements, the use of unique identifiers on each ICBM, submarine launched ballistic missile, and heavy bomber, and the 18 annual short-notice on-site inspections, combined with our National Technical Means, will further our critical national security objectives by helping us observe and evaluate Russian activities—an objective that is fundamental to our strategic stability.

Additionally, when it comes to our ballistic missile defense capabilities, former Secretary of State Condoleezza Rice wrote on December 7 that ''The Russians need to understand that the U.S. will use the full-range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.'' In an effort to make certain that our intentions are unambiguous, the U.S. issued a unilateral statement at the signing of New START, which affirms that our government ''intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.''

Furthermore, Ranking Member LUGAR also worked to ensure that the Resolution of Advice and Consent to Ratification that was approved by the Senate Foreign Relations Committee on September 16 addresses this question by declaring that ''it is the policy of the United States to deploy as soon as technically possible an effective National Missile Defense system'' and that nothing in the Treaty limits ''further planned enhancements'' to missile defense programs. President Obama, Secretary Clinton, and Secretary Gates have reaffirmed this commitment and the Administration's Ballistic Missile Defense Review, released in February, outlines a detailed plan to continue to

expand international missile defense efforts to defend the United States, our deployed forces, and our allies and partners around the world.

It is also important for the record to reflect that Russia issued a similar statement when the original START was signed in 1991, saying that the treaty would be viable only under conditions of compliance with the Anti-Ballistic Missile Treaty, which at the time restricted ballistic missile defenses. History clearly shows that following ratification of START the United States did not restrain its missile defense programs or reduce its expenditures on ballistic missile defenses in an effort to ensure that Russia remained committed to the original START Treaty. To the contrary, U.S. spending on ballistic missile defense programs increased dramatically following the signing of the original START agreement—from less than $4 billion for Department of Defense-wide ballistic missile defense funding support in 1991 to nearly $10 billion this year. Moreover, in spite of this threat in 1991, Russia remained a party to START and continued to negotiate further reductions on strategic offensive weapons after the U.S. withdrew from the ABM Treaty in 2002.

Still, despite this precedent and Ranking Member LUGAR's considerable efforts to make certain that the resolution addresses the issue of missile defense, questions have been raised about potential restrictions on our ability to deploy effective missile defenses, and some of my colleagues have rightly criticized the preamble's recognition of an ''interrelationship between strategic offensive arms and strategic defensive arms.'' It has been argued—and I agree—that this language, when combined with Russia's unilateral statement asserting its concern about a United States ''build-up'' in missile defense system capabilities, needlessly gives Russia a leverage point with which to attempt to compel our government to pull back from our missile defense objectives by threatening to withdraw from the Treaty if we seek to increase our capabilities. As a result, I supported Senator MCCAIN's effort to amend the Treaty to strike any reference to the ''interrelationship between strategic offensive arms and strategic defensive arms.''

Finally, when it comes to the modernization of our nuclear forces, meaningful concerns have been raised about the deplorable state of our deteriorating Manhattan Project-era nuclear laboratories and weapons stockpiles. Senators KYL and CORKER should be commended for their diligence in shedding light on the undeniable truth that these facilities are sorely out-dated, and continue to erode as safety and security costs have grown exponentially, maintenance is deferred, and layoffs and hiring freezes deprive our government of highly skilled scientists and technicians needed to maintain our nuclear deterrent.

Credible modernization plans and long-term funding for the U.S. nuclear weapons stockpile and the infrastructure that supports it are central to the effectiveness of our nuclear deterrent, and we have posed serious questions about the veracity of the administration's modernization report that was submitted to Congress with the New START agreement on May 13th, pursuant to section 1251 of the fiscal year 2010 Defense Authorization Act. Specifically, we have sought greater detail and assurances regarding the administration's plans to retool and sustain our national weapons labs—including construction of the vitally important plutonium processing facility, known as the Chemistry and Metallurgy Research Replacement nuclear facility, in Los Alamos, NM, and the Uranium Processing Facility at Oak Ridge, TN. These two projects are essential for meeting our life extension program requirements for existing warheads and certifying the safety and readiness of the current stockpile.

On November 17, due in large part to the unyielding persistence of Senators KYL and CORKER, the administration released an updated 1251 modernization report that directly answered many of our concerns and elaborated on our modernization objectives by providing more detailed 10-year timelines and specific budget projections to sustain funding for stockpile surveillance at over $200 million over the next 10 years, and cost estimates for the plutonium and uranium processing facilities at upwards of $5.8 billion and $6.5 billion respectively. In total, the administration has now committed more than $85 billion to modernize our nuclear weapons complex over the next 10 years—$15 billion more than initially proposed by the administration—and I am confident this undertaking will ensure continued support for these indispensable activities.

It is now the responsibility of President Obama and his administration to, in the months ahead, communicate even more specific details regarding any lingering concerns about our Nation's long-term modernization programs. The Resolution of Advice and Consent, which is currently before the Senate, includes strong language requiring direct notification to Congress if at any moment more resources are required—or if appropriations are enacted that fail to meet our modernization needs—and we as a body must hold this government true to these commitments.

In summary, the original START agreement was signed over 19 years ago, at a time when we still lived in a decidedly bipolar, and some might argue less complicated world. But with the fall of the Soviet Union and the end of the Cold War, we are now facing new threats from volatile governments intent on the proliferation of dangerous weapons, and decentralized terrorist groups focused on launching attacks more devastating even than 9/11.

Confronted with these daunting challenges, America must be prepared to defend our homeland, our forces in theatre, and our allies—and I believe this treaty allows future administrations to meet this responsibility, to maintain a safe and effective deterrent, and at the same time to continue to reduce the number of deployed and ready to launch long-range nuclear weapons. And as former Secretary of State James Baker noted in May, a more stable and cooperative relationship between Washington and Moscow ''will be vital if the two countries are to cooperate in order to stem nuclear proliferation in countries like Iran and North Korea.'' Simply put, the ratification of New START, and the cooperation and transparency it requires, has the potential to set the stage for expanded NATO and Russian collaboration when it comes to confronting terrorists and other dangerous proliferators—so together we may face those who threaten stability in the post-Cold War world.

Mr. President, the New START treaty has the unanimous support of our Nation's military and diplomatic leadership, Director of National Intelligence Jim Clapper, and the endorsement of President George H.W. Bush and prominent former national security officials such as Secretary of Defense Bill Cohen, and every living Secretary of State—including Colin Powell and Condoleezza Rice. As a member of the Senate Intelligence Committee, I am convinced that this agreement, when combined with our intelligence assets, will enhance global stability, and most importantly, our national security. I urge my colleagues to join me in supporting the Resolution of Advice and Consent to Ratification.

Mr. REID. Madam President, we cannot end this historic session of Congress without taking one more important step to protect the national security of the United States. It is time for the Senate to ratify the New START treaty.

This treaty will secure nuclear stockpiles. It will take nearly 1,500 American and Russian nuclear weapons out of commission. These are weapons that, as we speak, are trained on cities like Washington and Moscow, St. Louis and St. Petersburg.

More than a year has passed since American inspectors were on the ground monitoring the Russian nuclear weapons arsenal. The sooner we ratify this treaty, the sooner we can re-open the window into exactly what the Russians are, or are not, doing.

START will also preserve a strong American nuclear arsenal. Our military leaders have analyzed the treaty and determined the number of nuclear weapons we need to retain in order to keep us safe here at home. The director of the Missile Defense Agency has said the treaty will not restrain or limit our missile-defense capacity.

America and Russia control more than 90 percent of the world's nuclear weapons. The transparency this treaty

will provide is critical not just to our two countries but the entire planet.

By ratifying the START treaty, we will also increase our ability to work with other countries to reduce nuclear weapons around the world, and to make sure that those weapons are kept safe and secure. We need to work together with Russia to stop the most dangerous nuclear threats, including those from Iran and North Korea.

One of the greatest and gravest threats we face is the specter of a terrorist getting his hands on a nuclear weapon. We have faced nuclear threats before—but such a threat from a superpower is much different than one from a terrorist.

A nuclear-armed terrorist would not be constrained by doctrines of deterrence or mutually assured destruction. Instead, rogue groups could attack and destroy one of our cities—and millions of our people—without warning. By ratifying the New START treaty, we can help make sure this kind of unprecedented tragedy never happens

We have had a positive, bipartisan process up to this point. That should continue today.

The Senate Foreign Relations Committee overwhelmingly approved the treaty with a bipartisan vote of 14–4.

Our Nation's military leadership unanimously supports it. Secretary of Defense Robert Gates and Chairman of the Joint Chiefs of Staff ADM Michael Mullen testified before the Senate and urged us to ratify it.

Secretaries of State from the last five Republican Presidents support the treaty because they know—in their words—''The world is safer today because of the decades-long effort to reduce its supply of nuclear weapons.''

And an all-star team of Republican and Democratic national security leaders support the treaty, including former President George H.W. Bush, Colin Powell, Madeleine Albright, Brent Scowcroft, James Schlesinger, Stephen Hadley, Senator Sam Nunn, and Senator John Warner.

Republicans have been included and instrumental from the beginning. At Senator KERRY's urging, the resolution was crafted by Senator LUGAR to reflect the views of our Republican colleagues. The Foreign Relations Committee then adopted additional Republican amendments in its mark-up. And we have adopted four additional amendments on the floor.

Senator KYL raised legitimate concerns about the state of our nuclear weapons complex, and the White House responded with an $85 billion commitment to upgrade it over the next 10 years.

We have spent 8 days debating this treaty on the floor—that is longer than we spent on the original START—in a bipartisan and productive debate. I want to thank Chairman KERRY and Senator LUGAR for their tireless leadership on this treaty and thank Senators on both side of the aisle who have worked hard to get this treaty completed.

For many Nevadans, the sights and sounds of a nuclear attack are familiar. Deep in our desert sits the Nevada National Security Site, which until this summer was called the Nevada Test Site.

Today the site is the center of our fight against terrorism and nuclear smuggling. It is on the front lines of our intelligence, arms control and nonproliferation efforts.

But the site was once a critical battlefield of the Cold War, and for decades it served as our Nation's nuclear proving ground. A lot of Nevadans grew up with mushroom clouds in our backyard. We want to make sure the tests that took place in the Nevada desert are the closest we come to a nuclear explosion.

Today we can do that. We can continue our institution's long history of bipartisan support for arms control. We can take 1,500 nuclear weapons off their launch pads. And we can make the future far safer for America and the world.

This is not just a narrow Senate debate. It isn't just a local issue. And it isn't something that can wait another day. The whole world is watching and waiting for us to act.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, let me thank my colleagues for working hard to get this treaty passed and for being able to achieve that as well, people within the administration. I appreciate the cooperation some of us have had with the chairman of the Foreign Relations Committee, the ranking member and others who have worked hard to try to complete, in a very short period of time, what probably should have taken a lot longer period of time. But I appreciate their efforts to work with us in that regard.

I would like to, briefly, speak to three things: the process, the problems, and some positive results of the consideration of this treaty.

For those who are watching, I can tell you right now there is only one thing on the mind of everybody in this Chamber: How quickly are we going to get out of here. One colleague said: I have a plane to catch. How long are you going to talk? Will I be able to catch it?

That is understandable because every one of us wants to get home to our families. I know there were some snide comments expressed about my concern a week or so ago about the fact we were going to be into Christmas week. But now the reality is everybody wants to get out of here immediately so cut short your comments, put them in the RECORD, and so on.

When I predicted a couple weeks ago that I didn't think we had time to do everything the majority leader wanted to do and do it well, I had no idea how many things would be added to the agenda and how difficult that would be. Unfortunately, I think my prediction turned out to be correct.

I remember just 1 year ago when we were on the Senate floor doing the health care bill, one of the primary criticisms of it was the way it was done. I must tell you, with regard to the process of this bill, I am concerned about the precedent we are setting in the Senate, taking a lameduck session to jam so many things through, frequently without an opportunity to provide amendments or, when there are amendments, to simply have them all shot down without, I believe, adequate consideration.

We have done the tax legislation, the continuing resolution to fund the Government, the DOD authorization bill, the DREAM Act, don't ask, don't tell, the 9/11 bill is on the way, some judges, we passed a food safety bill almost in the middle of the night by unanimous consent without Members being adequately notified, and now the START treaty. In many of those situations, there was not adequate time—as I said, no amendments even allowed.

When cloture was filed, I expressed concern we had only dealt with, I believe at that time, four amendments to the treaty itself. But we were told: Don't worry. We will still give you consent to do resolution-of-ratification amendments.

Unfortunately, not all of them were permitted by the majority and, in order to get as many as possible together, we had to consolidate 70 or so amendments down to a very few.

The other side announced at the beginning of the debate there would be no amendments on the treaty itself or the preamble. It turned out the amendments that were offered were all defeated, but we did have some amendments on the resolution of ratification. They, too, would have all been defeated or were defeated, except for the fact that we were willing to water them down and, therefore, had them accepted by the majority.

Now we have very little time to make closing statements because we are going to adjourn sine die, meaning this is the end of the Congress. We will not have time to actually prepare written statements for the RECORD. This is a very brief statement to discuss primarily some positive things because there is not time to lay out all the problems that I think those of us who oppose the treaty still believe are present in the treaty.

I agree with the comments the newest Member of the Senate, MARK KIRK, made just a moment ago. He is very well schooled in these issues, though a new Member of the Senate. I associate myself with a lot of the remarks he made. I think later, when we come back next year, we can chronicle the things that were said in the debates and have a pretty good record of how it all ended. But I fear more for the process because of the precedent set that serious matters, such as the ones we have debated and dealt with, including the treaty, were done in, to some extent, a slipshod way, to some extent in

which there was not adequate time to do what the Senate should have done.

I also fear for the precedent set with respect to treaty ratification. Essentially, on many of the issues that were raised—and I appreciate, I must say, colleagues have been kind to me in their compliments. I appreciate that very much. They were complimentary to me and my colleagues in saying we were raising important issues that needed to be vetted, but in each case this was not the time to do it, this was not the place to do it because if we dare change one comma in this treaty, it would require that it be renegotiated. There were some unspecified horrible results of the fact that we would have to renegotiate the treaty because the Russians wouldn't like what we did.

The precedent we are establishing is that the Senate is a rubberstamp. Whatever a President negotiates with the Russians or somebody else, we dare not change because otherwise it will have to be renegotiated, to some great detriment to humanity, and I don't think that is appropriate. I think our Founders, when they wrote into the Constitution an equal role for the Senate and the President, they meant it. That role is advice and consent. We gave some advice in the last Defense authorization bill. We said, for example, don't negotiate conventional Prompt Global Strike limitations and don't allow limitations on missile defense. Both those things were done against our advice. But we are being asked to consent notwithstanding.

It seems to me, if the Senate is to have a role in the future on these kinds of treaties, we better come to an understanding if we are going to be able to make some changes. I don't think anybody ever said the administration ever got anything 100 percent right. We ought to be able to make some changes or else we might as well avoid the process altogether because it is just a big waste of time. Eleven years ago when we considered the Comprehensive Test Ban Treaty and rejected that treaty, a lot of commentators said the Senate had finally put its mark on the process by conclusively demonstrating it would not be a rubberstamp and that would be a new era for the administration in the future, having to pay some attention to what the Senate said. I hope this new START treaty is an aberration, rather than the beginning of a new precedent.

I will just tell you this. If the Comprehensive Test Ban Treaty is brought forward again, there will be a different process. Rather than the situation which obtained here, in which I did not urge a single colleague to oppose this treaty until the time that cloture was filed on it, I will urge every one of my colleagues to oppose reconsideration of the CTB.

So the process is not good. I have to hope that the result of the way we handled it this year will not establish a new precedent. The problems of the treaty I wish to discuss in detail, but because my colleagues want to catch airplanes, I will not.

Let me focus then on the third and last element here, which is, some new things we learned from this treaty, and, frankly, some achievements that were obtained as a result of a lot of attention to it—being paid to it by our colleagues, a lot of great debate, particularly with respect to missile defense, modernization, and future arms control agenda.

One of the things I think we have made some progress on is that this may be the last arms control agreement for a while. Maybe we can get back to focusing on the real issues, issues of proliferation, of terrorism dealing with threats from countries such as North Korea and Iran.

It is fine to have yet another Cold War era type agreement with Russia. But the real issue is not between Russia and the United States, it is dealing with these other threats. So I suggest we move away from the distraction of agreements such as this, and on to what is a more contemporary challenge. I think as a result of the debate, that will be possible to do.

I would quote one of our colleagues, Condoleezza Rice, who served with great distinction as Secretary of State, and before that as National Security Adviser, wrote recently in the Wall Street Journal and she said:

> After this treaty, our focus must be on stopping dangerous proliferators, not on further reductions of the U.S. and Russian strategic arsenals, which are really no threats to each other or to international stability.

Presidential Adviser Gary Samore agreed, saying:

> If Iran succeeds in developing a nuclear capability, that would do more damage to the effort of the President to achieve a nuclear free world than anything.

That is the real test of where we are headed. So I would hope the focus in the future will be on the illicit programs of Iran, of Korea, countries such as Syria, and potentially focusing on some of the supporters of these countries such as the country of China. These are the real challenges. I believe there would be bipartisan support in this body to address those challenges next.

But, secondly, I think as a result of focusing on our nuclear arsenal, which we had to do by looking at this treaty, we have also learned that we have a very big challenge in this country. And, fortunately and parallel with the treaty, we worked on this challenge, the issue of how we can modernize our nuclear facilities and nuclear force and the delivery vehicles of the triad that would deliver those vehicles.

I think we have all agreed we made significant improvement in that regard. The administration, I believe, has made a significant commitment to the modernization of our nuclear facilities. And the Senate, in various ways in dealing with this treaty, has done likewise, as well as through an exchange of letters that have been entered into by members of the Appropriations Committee, and we hope to work with our colleagues in the House of Representatives with whom we have not had enough contact on this issue. But hopefully, as a result of everything we have done, we will have an opportunity to fund the modernization, as it becomes clear more precisely what has to be done, to ensure that all of that is accomplished within the appropriate timeframe.

When we started out, we had a pretty woeful amount of money dedicated to the modernization of our nuclear facilities. Now we have a request from the administration of a total of about $85 billion over a decade to operate our facilities. That includes about $15 billion in new modernization spending.

With the 1251 report coming from the administration each year, we anticipate there will be further updates which will demonstrate additional progress we can make in the modernization. In addition, I mentioned the letter from the four key members of the Appropriations Committee in this body. We hope to work with Members in the House of Representatives likewise.

Finally on this matter, one of the last amendments that was adopted is a certification requirement, which is a change to the resolution of ratification that, to the extent possible, the administration will accelerate the planning and design of the two major facilities here and, where appropriate, request multiyear funding, of which my two colleagues from Tennessee who are, as usual, seated right here together, made a very strong point—that we could not only save a lot of money every year but also accelerate the construction of these facilities so we could complete the life extension programs for our nuclear weapons that are so critical.

A third thing I think we did, which is a very positive result, is to focus a little bit also on the other aspect of modernization; that is to say, the triad, our nuclear triad of bombers, submarines, and ICBMs.

The Secretary of Defense had made a decision at the outset of the Obama administration that we would cancel the decision on the next generation of bomber. It was very unclear whether it was the intention of our government to have a nuclear-capable bomber part of the nuclear triad.

Quoting General Chilton, who is the general responsible at Strategic Command on this, ''We need service programs that sustain the long-term viability of our land-based, airborne, and sea-based delivery platforms.''

One of the amendments that was adopted, amendment No. 4864, does require the President to certify that he intends to modernize or replace the triad, a heavy bomber and air-launched cruise missile, nuclear capable, an ICBM, and an SSBN and SLBM—in other words, the submarine leg, which I believe the administration has already begun to move forward on.

Also it would maintain the rocket motor industrial base necessary to support continued production of ballistic missiles. This is very important, because even if you modernize the warheads, if you do not have modern delivery vehicles to deliver them, obviously you do not have a capable deterrent. And, of course, the Russians, who have the most capable system other than ours, are modernizing their delivery vehicles, especially their ICBMs and, as a result, I think we need to do that as well.

I am very pleased we have been able to resolve this question about a nuclear-capable triad. I look forward to clear and unambiguous statements from the administration in the future about this, and eventually getting a replacement for all three legs of the triad that need to be modernized.

Fourth, there was a lot of discussion here about missile defense. I think without the treaty having come up, we probably would not have spent the time and raised the issues with regard to missile defense that were raised. We had a disagreement here about whether—or the extent to which the preamble to the treaty and article V of the treaty and the signing statements created a problem with respect to further development of our missile defenses.

But through this debate, I believe, through commitments of the President in a letter that he wrote, through an amendment to the resolution of ratification and a lot of statements for the record during this debate, we are much further down the road in predicting that we will be able to deploy the kind of missile defense that is necessary to protect not just our allies in Europe, for example, but also the continental United States and the American people.

To conclude this point, any attempt by the Russian Federation now to reestablish a link between missile defense and strategic arms control will not succeed; that any argument that there is a legal right to withdraw from the treaty if we proceed with our deployment plans, as they will be communicated to the Russians, will not stand. So our friends in Russia do need to understand what we have done here. And we are making clear, as President Reagan once did, that U.S. missile defenses are simply not open to a discussion. They will not be part of future negotiations as well.

Finally, with regard to the Conventional Prompt Global Strike, I think we made some progress there. Very few people had ever heard the phrase, knew what it was. The Senate did give its advice in last year's Defense bill not to limit it. But, nevertheless, it was limited in the treaty. I think our debate about it here has helped to educate Members as to the need for this, something both the administration and many of us here in the Senate support. It is simply the capability to deliver not a nuclear warhead but a conventional warhead by an ICBM at a very long distance in a very relatively short period of time, to meet some of the new threats we are going to be facing in the future.

Unfortunately, Prompt Global Strike is limited in the treaty. Notwithstanding that unfortunate linkage, as I said, I think we have had an opportunity to obtain a more secure commitment from the administration on the deployment of the Global Strike capability, because the resolution of ratification now calls for a detailed report on our CPGS objectives prior to entry into the force of the treaty.

It will require the administration to consider treaty limitations, methods of distinguishing nuclear, nonnuclear systems, which are possible and should relieve any concern that the Russians have about the potential for a Prompt Global Strike weapon being confused with a nuclear weapon.

Apart from all of the things I just talked about there are other things in the resolution of ratification that will add some strength to the position that those of us who oppose the treaty have taken, including working through the Bilateral Consultative Commission, not being undercut by that commission, requiring an annual report certifying Russian compliance with the terms of the New START treaty, things of that sort.

I conclude that one of the things we will have to do proactively from here on out, in order to achieve some of the objectives that we have talked about here, is to work with our House colleagues who have not been a part of this process, to share with them the reasons we have concluded these things are important, to work together, the administration, my colleagues on the Democratic side and our side, to convince them each year of the necessary appropriations that will be required, among other things, for modernization of both the triad and—I know my colleagues are anxious to leave. As a result, I will cut my comments short to make this point.

I again close, as I opened, by thanking colleagues for working under what are, frankly, very difficult circumstances, to try to compress everything into a very short period of time, to be on a START treaty at the same time we are parachuting in all manner of other issues and trying to get those resolved. This has not been easy.

For those colleagues who were patient and expressed desire to do things on the floor that we did not have time for, I appreciate their indulgences and appreciate the courtesies that everyone has extended. This has been very contentious, and yet the disagreements between us have never risen to any level beyond that which is totally appropriate for a serious debate in the Senate, proving again that while we can disagree or will disagree, we can certainly do so agreeably. I thank my colleagues for their willingness to do that.

Mr. KERRY. Madam President, I thank the Senator. I know he has curtailed his remarks. I have cut mine. But I do want to say a couple of things as we try to wind down here. I want to thank the Senator from Arizona for helping to get us to a point where we can vote now. I want to thank Senator WYDEN who, 48 hours after surgery, has made himself available to come here and to be able to vote. We are appreciative of that.

As we end our debate on the New START treaty, I believe we can say the Senate has done its duty, and done it with diligence, serious purpose, and honor. And I am confident that our Nation's security—and that of the world—will be enhanced by ratifying this treaty.

When we began this debate 8 days ago, I quoted CHRIS DODD's farewell address, in which he reminded us that the Founding Fathers had designed the Senate with these moments in mind. I think over the past week we have lived up to our moment. Senators have had opportunity to speak and debate. The fact is, we have considered this treaty—a less complicated or far-reaching treaty than START I—for longer than we considered START I and START II combined.

Admiral Mullen summed up our interests in this treaty in a compelling way. He said:

> I continue to believe that ratification of the New START Treaty is vital to U.S. national security. Through the trust it engenders, the cuts it requires, and the flexibility it preserves, this treaty enhances our ability to do that which we in the military have been charged to do: protect and defend the citizens of the United States. I am as confident in its success as I am in its safeguards. The sooner it is ratified, the better.

I think that is exactly right, and it is important to keep our fundamental charge to protect America foremost in our minds.

But I think there is something more to think about now. In the back and forth of debates like this, as we dispute details and draw dividing lines, it is easy to lose sight of the magnitude of the decision we are making.

Because sometimes, when we repeat and repeat and repeat certain words and phrases they become routine and ritual, and their true meaning fades away. When we argue about the difference between 700 delivery vehicles and 720, we may forget that in the final analysis, regardless of where we stand on the START treaty, this is one of

those rare times in the U.S. Senate, one of the only times in all our service here, when we have it in our power to safeguard or endanger human life on this planet. More than any other, this issue should transcend politics. More than any other, this issue should summon our best instincts and our highest sense of responsibility. More than at almost any other time, the people of the world are watching us because they rely on our leadership and because this issue involves not simply our lives and the lives of our children but their lives and the lives of their children as well.

So it is altogether fitting that we have debated and now we decide not in a campaign season, but in a season that celebrates and summons us to the ideal of peace on Earth. Yes, we have contended about schedules. Yes, the constant chatter on cable speculates about whether we would approve the treaty in time to get out of here for Christmas. But the question is not whether we get out of here for a holiday; the question is whether we move the world a little more out of the dark shadow of nuclear nightmare. For whatever our faith, the right place for us at this time of year, no matter how long it may take, is here in the Senate where we now have a unique capacity to give a priceless gift not just to our friends and family, but to our fellow men and women everywhere. When Robert Oppenheimer left Los Alamos after the atomic bomb was dropped, he said, ''The peoples of this world must unite or they will perish. This war, that has ravaged so much of the earth, has written these words. The atomic bomb has spelled them out for all men to understand. . . . By our works we are committed, committed to a world united, before this common peril, in law and in humanity.'' That is what brings us to this moment.

Last night, a friend called my attention to the meditation of Pope John Paul II when he visited Hiroshima. He said that from the memory of those awesome mushroom clouds over Hiroshima and Nagasaki we must draw the ''conviction that man who wages war can also successfully make peace.'' This month in homes across this land, Americans are honoring moments in the history of faith that enshrine the values that guide us all regardless of faith. We in the Senate, only 100 of us in a world of billions, should be humbled and proud that in this month we have the privilege of reducing the risks of war and advancing the cause of peace.

So think of what is at stake here and of the role we now have to play, not only in the governing of our country but literally in the life of the world. Here more than ever our power to advise and consent is more than some arcane procedural matter. The Framers of the Constitution created the Senate with a vision of statesmanship, that here narrow interests would yield to the national interest, that petty quarrels would be set aside in pursuit of great and common endeavor. The best of our history has proven the wisdom of that vision. There was that defining moment when Senator Daniel Webster stood at his desk in this Chamber to address the fundamental moral issue of slavery. The words with which he started were stark and simple, and they should guide us today and every day. He said: ''I speak not as a Massachusetts man, nor a northern man, but as an American.'' This is the very definition of what it means to be a Senator. To speak not for one State but for one America. To remember that the whole world is watching. So it is now, and so it has been across the decades during which so many Presidents and Senators of both parties, citizens in every part of the country, have struggled and at critical turning points succeeded in pushing back the dark frontier of nuclear conflict. The efforts have not always been perfect; nothing in life or policy ever is. But as we end this debate now, let us take our own step forward for America and for the world. As stewards of enormous destructive power, we too can become the stewards of peace.

The VICE PRESIDENT. The Senator from Indiana.

Mr. LUGAR. Mr. President, as the Senate approaches a point of decision on the New START treaty, I would like to offer a few concluding thoughts.

My attitudes towards the enterprise of arms control have been affected by the time I have spent during the last two decades visiting remote areas of Russia in an effort to bolster Nunn-Lugar dismantlement operations. When one sees Russian SS–18 ballistic missiles being cut up at Surovatikha, or when one witnesses the dismantlement of a Typhoon ballistic missile submarine at the SevMash facility on the approaches to the Barents Sea, one gets a clear picture of the enormity of the problem that confronted us during the Cold War.

With all the destructive power that was created during that era amidst intense suspicion and enmity between the United States and the former Soviet Union, we were extraordinarily fortunate to have avoided a mishap that could have destroyed American civilization. During the last two decades, we have circumscribed the nuclear problem, but we have not eliminated it. Our cities remain vulnerable to accident, miscalculation, and proliferation stemming from the Russian nuclear arsenal. And we still must pay very close attention to the disposition of Russian nuclear forces.

Visiting dismantlement operations in Russia also underscores that arms control is a technically challenging endeavor. In these debates we generally focus on the balance of nuclear forces, deterrence theories, diplomatic maneuvers, and other aspects of high statecraft. But arms control is also a ''nuts and bolts'' enterprise involving thousands of American and Russian technicians, officials, and military personnel. Verification and dismantlement activities require tremendous cooperation on mundane engineering challenges, equipment and supply logistics, and legal frameworks that allow these activities to proceed.

Ironically the exacting nature of arms verification and elimination may be a blessing. The challenges of this work and the amount of information that both sides are required to exchange have improved transparency and forced our countries to build productive partnerships over time.

The Foreign Relations Committee held a hearing on June 24 in which Defense Department officials in charge of verification and dismantlement activities in the former Soviet Union testified. These officials oversee dismantlement work in Russia that occurs every day. Their agencies oversaw verification under START I before the treaty expired on December 5, 2009. They would oversee the verification work required under the New START treaty.

They described in detail how verification operations are conducted and gave Senators a picture of how the United States and Russia cooperate on technically challenging nonproliferation goals. Only five members of the committee attended that hearing. I wish that every Senator could have attended, because the presentation underscored how much the START process links our two defense establishments and how critical the START framework is to nonproliferation activities.

Mr. President, there is a maxim that has been popularized in American cinema, variants of which have sometimes been attributed to early political philosophers such as Sun Tsu or Machiavelli. It is ''Keep your friends close, but your enemies closer.'' I am not suggesting that Russia is an enemy. Our relationship with that country is far more complex. It is a relationship that is both wary and hopeful. We admire the Russian people and their cultural and scientific achievements, while lamenting continuing restrictions on their civil and political liberties. We recognize the potential for U.S.-Russian cooperation based on deep commonalities in our history and geography, even as we are frustrated that Cold War sensibilities are difficult to dislodge.

Although we can and must make situational judgments to engage Russia, such engagement is no guarantee that we will experience a convergence of perceived interests or the elimination of friction.

But one does not have to abandon one's skepticism of the Russian Government or dismiss contentious foreign policy disagreements with Moscow to invest in the practical enterprise of nuclear verification and transparency. In fact, it is precisely the friction in our broader relationship that makes this treaty so important.

It would be an incredible strategic blunder to sever our START relationship with Russia when that country still possesses thousands of nuclear weapons. We would be distancing ourselves from a historic rival in the area where our national security is most affected and where cooperation already has delivered successes. When it comes to our nuclear arsenals we want to keep Russia close. There are enough centripetal forces at work without abandoning a START process that has prevented surprises and miscalculations for 15 years.

The New START agreement came about because the United States and Russia, despite differences on many geopolitical issues, do have coincident interests on specific matters of nuclear security. We share an interest in limiting competition on expensive weapons systems that do little to enhance the productivity of our respective societies. We share an interest in achieving predictability with regard to each other's nuclear forces so we are not left guessing about equal potential vulnerabilities. We share an interest in cooperating broadly on keeping weapons of mass destruction out of the hands of terrorists. And we share an interest in maintaining lines of communication between our political and military establishments that are based on the original START agreement.

Over the last 7 months the Senate has performed due diligence on the New START treaty. Most importantly, we have gathered and probed military opinion about what the treaty would mean for our national defense. We have heard from the top military leadership, as well as the commanders who oversee our nuclear weapons and our missile defense. We have heard from former Secretaries of Defense and STRATCOM commanders who have confirmed the judgment of current military leaders. Their answers have demonstrated a carefully-reasoned military consensus in favor of ratifying the treaty. Rejection of such a consensus on a treaty that affects fundamental questions of nuclear deterrence would be an extraordinary action for the Senate to take.

Moreover, the treaty review process has produced a much stronger American political consensus in favor of modernization of our nuclear forces and implementation of our miile defense plans. This includes explicit commitments by the President and congressional appropriators. In the absence of the New START treaty, I believe this consensus would be more difficult to maintain. We have the chance today not only to approve the New START treaty, but also to solidify our domestic determination to achieve these national security goals.

I began the Senate debate on this treaty last week by citing a long list of the national security threats that currently occupy our nation and our military. Our troops are heavily engaged in Afghanistan and Iraq. We are fighting a global terrorist threat. And we are seeking to resolve the dangerous circumstances surrounding nuclear weapons programs in Iran and North Korea. We are attempting to address these and many other national security questions at a time of growing resource constraints reflected in a $14 trillion debt.

In this context the U.S. Senate has a chance today to constrain expensive arms competition with Russia. We have chance to guarantee transparency and confidence-building procedures that contribute to our fundamental national security. We have a chance to frustrate rogue nations who would prefer as much distance as possible between the United States and Russia on nuclear questions. And we have a chance to strike a blow against nuclear proliferation that deeply threatens American citizens and our interests in the world.

I am hopeful that the Senate will embrace this opportunity to bolster U.S. national security by voting to approve the New START treaty.

I thank the Chair.

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

The majority leader is recognized.

JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010

Mr. REID. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 641, H.R. 847, the James Zadroga 9/11 Health and Compensation Act of 2010; further, that the Gillibrand-Schumer substitute amendment, which is at the desk, be agreed to, the Senate proceed to a vote on the bill immediately, as amended, with no intervening action or debate, further, that if the bill is passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The VICE PRESIDENT. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 847) to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

The VICE PRESIDENT. Under the previous order, the substitute amendment is agreed to.

The amendment (No. 4923) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. CONRAD. Mr. President, this is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 847, as amended.

Total Budgetary Effects of H.R. 847 for the 5-year Statutory PAYGO Scorecard: net decrease in the deficit of $101 million.

Total Budgetary Effects of H.R. 847 for the 10-year Statutory PAYGO Scorecard: net decrease in the deficit of $443 million.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 847, THE JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010 (VERSION BAI10697), AS ADOPTED BY THE SENATE ON DECEMBER 22, 2010

[By fiscal year, in millions of dollars]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Net Increase or Decrease (−) in the Decifit												
Statutory Pay-As-You-Go Impact	−242	106	170	56	−191	1,398	−346	−466	−461	−457	−101	−433

Note: Components may not sum to totals because of rounding.

The amendment would establish a program for health care benefits for eligible emergency personnel who responded to the September 11, 2001, terrorist attacks and eligible residents and others present in the area of New York City near the World Trade Center. The legislation also would provide compensation payments to certain individuals for death and physical injury claims resulting from the attacks. The amendment would extend for one year certain fees on L and H–1B nonimmigrants that currently expire after fiscal year, 2014, and would impose a 2 percent excise tax on payments made to certain foreign persons by federal agencies to obtain certain goods or services.

Source: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Mr. LEAHY. Mr. President, I have heard complaints over the past few days about why we in the Senate are still working so close to the Christmas holiday. All of us would rather be home with our families, but of course we were sent here to serve the American people. We were sent here to the Senate to do the work of the American people, and we have been trying to complete our work for the past several weeks. One remaining issue demands our attention: taking care of the Americans who responded to the terrorist attacks on September 11th. We cannot turn our backs on these injured and ailing first responders. This is a defining issue of our American values—how we serve those who have sacrificed for our Nation.

Almost a decade ago, in the aftermath of attack, I visited the Fresh Kills Landfill on Staten Island, NY. There, I witnessed detectives and medical professionals conduct the heartbreaking work to sort debris from the World Trade Center Towers in order to recover the remains and personal effects of those killed in the 9/11 attacks. It is difficult to describe how moving and powerful this was. It affirmed my faith in the goodness of America and its citizens.

These Americans were doing everything they could to bring what little comfort and closure they could to the survivors of those killed. They were acting not for themselves but for their fellow citizens. These men and women were driven by the same sense of patriotism and compassion that drove so many brave Americans to rush from across the United States to respond at Ground Zero. Their acts of heroism, selflessness, and patriotism were emblematic of how Americans came together for one another.

The legislation we consider today is the least we can do for these men and women who answered the call of their Nation in our moment of crisis. It is for the 30 New York City police officers who have died since September 11, 2001, as the result of illnesses brought on by exposure to the toxic dust and debris. It is for the 13,000 first responders who are sick as a result of their brave actions at Ground Zero. It is for the thousands of men and women who came from across the United States to help the people of New York and our country. And it is for the thousands more who will need medical care in the future. They deserve the continuing support and assistance of their government, on behalf of all Americans.

It is deeply disappointing that passing this legislation has been so difficult. It should not be. If there is one thing on which we should find unanimity, it is fulfilling our obligation to the men and women who gave so much to help others on 9/11. These men and women asked nothing before they acted. They did what they thought was right. It is long past time for the Senate to do what is right by them.

I applaud the Senators from New York. They have worked tirelessly and in the end agreed to compromise with a few of Senators on the other side of the aisle who were blocking action on this bill to help these first responders. The legislation we will pass today does not go as far as many of us hoped and believe appropriate, but it will go a long way to help the dedicated police officers, firefighters, construction workers, and medical personnel who were injured because of their service at a time of great national need. I cannot think of a better measure to end our work on in this Chamber than the message that we honor their service by taking care of the injuries they sustained while serving.

Mr. BROWN of Massachusetts. Mr. President, I come to the floor today to congratulate my colleagues on their leadership and their willingness to come to the table to find a workable solution to ensure that we do not forget those who risked their lives on September 11, 2001.

Today, the Senate reached an agreement to move forward on legislation that would create a program dedicated exclusively to provide screening and treatment to the first responders and other men and women who participated in rescue efforts at the World Trade Center.

As I have said repeatedly, the work of my colleagues, Ms. GILLIBRAND and Mr. SCHUMER, are honorable and good. As I have said in every meeting that I have held—whether meeting with firefighters and police officers in Massachusetts, whether it be with Mayor Bloomberg of New York City or New York City Police Commissioner Kelly—I support their efforts and their good work and dedication to make sure that none of the heroes from September 11, 2001 are left behind or forgotten.

I support this agreement because it represents what the Senate should be about: coming together, working together, and finding common ground and workable solutions. Today, in the final hours of the 111th Congress, we did just that by providing benefits to the first responders in a realistic and pragmatic way.

But, M. President, I continue to have reservations regarding the offsets that are used to provide these benefits. As I have said to my colleagues, I am concerned because I am not 100 percent confident that the suggested offsets will materialize because of potential legal challenges or questionable trade implications.

We should not forget the lives that were lost on September 11, 2001. The lives that were risked that day. And those who continue to live with scars from that day. And I can assure you, we won't.

I am supporting this legislation because it provides access to the health care and treatment that our heroes deserve. And I greatly appreciate the input and patience of so many firefighters and first responders from my own state of Massachusetts, for whom I have tremendous respect and gratitude for all that they do.

Thank you, Mr. President. And I yield the floor.

Mr. REID. Mr. President, the horror of September 11 was unforgettable, and so much about that day was unimaginable.

But imagine you had the courage to run into the disaster everyone else was running away from. And because of the toxic fumes and smoke you breathed in while you were working there, you got terribly sick.

And almost a decade later, you are still suffering. You have trouble breathing, or maybe a tumor, or some other lung or heart disease. You knew you would be risking your life, but you probably didn't know it would—like this.

Now imagine the help you need—the health care and compensation you deserve—is within reach. But your Senator is keeping it from you.

That is exactly what is happening right now. The courageous first responders and rescue workers who were the first on the scene at Ground Zero need our help.

It is all so hard to imagine. It is hard to imagine we would have the courage to do what they did that day—and that is why we revere these first responders. And it is hard to imagine their leaders would abandon them like this.

We should all be embarrassed we are still here, at this late date, talking about this bill. This is not controversial—it is common sense. We should never, ever waste a minute before rushing to help the heroes of 9/11. We should never, ever waste a minute before rushing to help the victims of that day. These first responders are both—and this delay is simply inexcusable.

This new program will make sure we do our jobs just as they did theirs. It sets up a program that will monitor the health and treatment of the thousands of rescue workers and survivors of 9/11 and makes sure they get the care they need.

The authors of this bill have written protections into it to ensure the quality of the medical treatment it delivers and to protect it from fraud.

As far as legislation and leadership go, this one is a no-brainer. But opponents have tried every excuse to stand in the way. On each count, they're wrong.

It's not a new entitlement—in fact, it's fiscally responsible and its funding is capped. Checks and balances are in place to make sure all claims are legitimate. And when this program is established, it will be used only as a last resort—only if it's needed after private health insurance and workers' compensation aren't sufficient or fast enough.

None of these men and women thought twice before trying to save the lives of their fellow Americans. Neither should we.

We all know the Capitol might not be standing without the courage of men and women who became heroes that day. How can we stand in this building and vote against helping their fellow heroes—people who were the first to respond when the unimaginable happened?

The VICE PRESIDENT. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The bill (H.R. 847), as amended, was passed.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

The VICE PRESIDENT. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that there be no other amendments, motions, or points of order in order in relation to the treaty or the resolution of ratification; that the Senate immediately proceed with no intervening action or debate to a vote on the Resolution of Advise and Consent to Ratification, as amended, to the New START Treaty, Treaty Document No. 111–5; that if the resolution is adopted, the motion to reconsider be laid upon the table and the President of the United States be immediately notified of the Senate's action; that upon disposition of the New START treaty, the Senate proceed to a vote on confirmation of the nomination of Calendar No. 1089, Mary Helen Murguia, of Arizona, to be a U.S. circuit judge for the Ninth Circuit; that if the nomination is confirmed, the motion to reconsider be laid upon the table and the President be immediately notified of the Senate's action; that following the vote on the Murguia nomination, the Senate immediately proceed to a vote on Calendar No. 934, Scott M. Matheson, Jr., of Utah, to be a U.S. circuit judge for the Tenth Circuit; that if the nomination is confirmed, the motion to reconsider be laid upon the table and the President be immediately notified of the Senate's action; further, that upon disposition of the Matheson nomination, I ask unanimous consent that the Senate proceed to the consideration of the following judicial nominations en bloc: Calendar Nos. 1119, 1120, and 1139, that is, Kathleen M. O'Malley, Beryl Alaine Howell, and Robert Leon Wilkins; that the nominations be confirmed en bloc, the motion to reconsider be considered made and laid upon the table en bloc, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The VICE PRESIDENT. Is there objection?

Without objection, it is so ordered.

The question is on the adoption of the resolution of ratification, as amended, to the treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

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

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), and the Senator from Kentucky (Mr. BUNNING).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''nay.''

The yeas and nays resulted—yeas 71, nays 26, as follows:

[Rollcall Vote No. 298 Ex.]

YEAS—71

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

NAYS—26

Barrasso	Graham	McConnell
Burr	Grassley	Risch
Chambliss	Hatch	Roberts
Coburn	Hutchison	Sessions
Cornyn	Inhofe	Shelby
Crapo	Kirk	Thune
DeMint	Kyl	Vitter
Ensign	LeMieux	Wicker
Enzi	McCain	

NOT VOTING—3

Bond	Brownback	Bunning

The VICE PRESIDENT. On this vote, the yeas are 71, the nays are 26. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification, as amended, is agreed to.

The resolution of ratification agreed to is as follows:

TREATY APPROVED

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms (Treaty Doc. 111–5).

Resolution of ratification as amended:

Resolved, (two-thirds of the Senators present concurring therein),

That the Senate advises and consents to the ratification of the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol, including Annex on Inspection Activities to the Protocol, Annex on Notifications to the Protocol, and Annex on Telemetric Information to the Protocol, all such documents being integral parts of and collectively referred to in this resolution as the ''New START Treaty'' (Treaty Document 111–5), subject to the conditions of subsection (a), the understandings of subsection (b), and the declarations of subsection (c).

(a) CONDITIONS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following conditions, which shall be binding upon the President:

(1) GENERAL COMPLIANCE.—If the President determines that the Russian Federation is acting or has acted in a manner that is inconsistent with the object and purpose of the New START Treaty, or is in violation of the New START Treaty, so as to threaten the national security interests of the United States, then the President shall—

(A) consult with the Senate regarding the implications of such actions for the viability of the New START Treaty and for the national security interests of the United States;

(B) seek on an urgent basis a meeting with the Russian Federation at the highest diplomatic level with the objective of bringing the Russian Federation into full compliance with its obligations under the New START Treaty; and

(C) submit a report to the Senate promptly thereafter, detailing—

(i) whether adherence to the New START Treaty remains in the national security interests of the United States; and

(ii) how the United States will redress the impact of Russian actions on the national security interests of the United States.

(2) PRESIDENTIAL CERTIFICATIONS AND REPORTS ON NATIONAL TECHNICAL MEANS.—(A) Prior to the entry into force of the New START Treaty, and annually thereafter, the President shall certify to the Senate that United States National Technical Means, in conjunction with the verification activities provided for in the New START Treaty, are sufficient to ensure effective monitoring of Russian compliance with the provisions of the New START Treaty and timely warning of any Russian preparation to break out of the limits in Article II of the New START Treaty. Following submission of the first such certification, each subsequent certification shall be accompanied by a report to the Senate indicating how United States National Technical Means, including collection, processing, and analytic resources, will be utilized to ensure effective monitoring. The first such report shall include a long-term plan for the maintenance of New START Treaty monitoring. Each subsequent report shall include an update of the long-term plan. Each such report may be submitted in either classified or unclassified form.

(B) It is the sense of the Senate that monitoring Russian Federation compliance with the New START Treaty is a high priority and that the inability to do so would constitute a threat to United States national security interests.

(3) Reductions.—(A) The New START Treaty shall not enter into force until instruments of ratification have been exchanged in accordance with Article XIV of the New START Treaty.

(B) If, prior to the entry into force of the New START Treaty, the President plans to implement reductions of United States strategic nuclear forces below those currently planned and consistent with the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, signed at Moscow on May 24, 2002 (commonly referred to as ''the Moscow Treaty''), then the President shall—

(i) consult with the Senate regarding the effect of such reductions on the national security of the United States; and

(ii) take no such reductions until the President submits to the Senate the President's determination that such reductions are in the national security interest of the United States.

(4) TIMELY WARNING OF BREAKOUT.—If the President determines, after consultation with the Director of National Intelligence, that the Russian Federation intends to break out of the limits in Article II of the New START Treaty, the President shall immediately inform the Committees on Foreign Relations and Armed Services of the

Senate, with a view to determining whether circumstances exist that jeopardize the supreme interests of the United States, such that withdrawal from the New START Treaty may be warranted pursuant to paragraph 3 of Article XIV of the New START Treaty.

(5) UNITED STATES MISSILE DEFENSE TEST TELEMETRY.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the New START Treaty does not require, at any point during which it will be in force, the United States to provide to the Russian Federation telemetric information under Article IX of the New START Treaty, Part Seven of the Protocol, and the Annex on Telemetric Information to the Protocol for the launch of—

(A) any missile defense interceptor, as defined in paragraph 44 of Part One of the Protocol to the New START Treaty;

(B) any satellite launches, missile defense sensor targets, and missile defense intercept targets, the launch of which uses the first stage of an existing type of United States ICBM or SLBM listed in paragraph 8 of Article III of the New START Treaty; or

(C) any missile described in clause (a) of paragraph 7 of Article III of the New START Treaty.

(6) CONVENTIONAL PROMPT GLOBAL STRIKE.—(A) The Senate calls on the executive branch to clarify its planning and intent in developing future conventionally armed, strategic-range weapon systems. To this end, prior to the entry into force of the New START Treaty, the President shall provide a report to the Committees on Armed Services and Foreign Relations of the Senate containing the following:

(i) A list of all conventionally armed, strategic-range weapon systems that are currently under development.

(ii) An analysis of the expected capabilities of each system listed under clause (i).

(iii) A statement with respect to each system listed under clause (i) as to whether any of the limits in Article II of the New START Treaty apply to such system.

(iv) An assessment of the costs, risks, and benefits of each system.

(v) A discussion of alternative deployment options and scenarios for each system.

(vi) A summary of the measures that could help to distinguish each system listed under clause (i) from nuclear systems and reduce the risks of misinterpretation and of a resulting claim that such systems might alter strategic stability.

(B) The report under subparagraph (A) may be supplemented by a classified annex.

(C) If, at any time after the New START Treaty enters into force, the President determines that deployment of conventional warheads on ICBMs or SLBMs is required at levels that cannot be accommodated within the limits in Article II of the New START Treaty while sustaining a robust United States nuclear triad, then the President shall immediately consult with the Senate regarding the reasons for such determination.

(7) UNITED STATES TELEMETRIC INFORMATION.—In implementing Article IX of the New START Treaty, Part Seven of the Protocol, and the Annex on Telemetric Information to the Protocol, prior to agreeing to provide to the Russian Federation any amount of telemetric information on a United States test launch of a conventionally armed prompt global strike system, the President shall certify to the Committees on Foreign Relations and Armed Services of the Senate that—

(A) the provision of United States telemetric information—

(i) consists of data that demonstrate that such system is not subject to the limits in Article II of the New START Treaty; or

(ii) would be provided in exchange for significant telemetric information regarding a weapon system not listed in paragraph 8 of Article III of the New START Treaty, or a system not deployed by the Russian Federation prior to December 5, 2009;

(B) it is in the national security interest of the United States to provide such telemetric information; and

(C) provision of such telemetric information will not undermine the effectiveness of such system.

(8) BILATERAL CONSULTATIVE COMMISSION.—Not later than 15 days before any meeting of the Bilateral Consultative Commission to consider a proposal for additional measures to improve the viability or effectiveness of the New START Treaty or to resolve a question related to the applicability of provisions of the New START Treaty to a new kind of strategic offensive arm, the President shall consult with the Chairman and ranking minority member of the Committee on Foreign Relations of the Senate with regard to whether the proposal, if adopted, would constitute an amendment to the New START Treaty requiring the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(9) UNITED STATES COMMITMENTS ENSURING THE SAFETY, RELIABILITY, AND PERFORMANCE OF ITS NUCLEAR FORCES.—(A) The United States is committed to ensuring the safety, reliability, and performance of its nuclear forces. It is the sense of the Senate that—

(i) the United States is committed to proceeding with a robust stockpile stewardship program, and to maintaining and modernizing the nuclear weapons production capabilities and capacities, that will ensure the safety, reliability, and performance of the United States nuclear arsenal at the New START Treaty levels and meet requirements for hedging against possible international developments or technical problems, in conformance with United States policies and to underpin deterrence;

(ii) to that end, the United States is committed to maintaining United States nuclear weapons laboratories and preserving the core nuclear weapons competencies therein; and

(iii) the United States is committed to providing the resources needed to achieve these objectives, at a minimum at the levels set forth in the President's 10-year plan provided to the Congress pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84).

(B) If appropriations are enacted that fail to meet the resource requirements set forth in the President's 10-year plan, or if at any time more resources are required than estimated in the President's 10-year plan, the President shall submit to Congress, within 60 days of such enactment or the identification of the requirement for such additional resources, as appropriate, a report detailing—

(i) how the President proposes to remedy the resource shortfall;

(ii) if additional resources are required, the proposed level of funding required and an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;

(iii) the impact of the resource shortfall on the safety, reliability, and performance of United States nuclear forces; and

(iv) whether and why, in the changed circumstances brought about by the resource shortfall, it remains in the national interest of the United States to remain a Party to the New START Treaty.

(10) ANNUAL REPORT.—As full and faithful implementation is key to realizing the benefits of the New START Treaty, the President shall submit a report to the Committees on Foreign Relations and Armed Services of the Senate not later than January 31 of each year beginning with January 31, 2012, which will provide—

(A) details on each Party's reductions in strategic offensive arms between the date the New START Treaty entered into force and December 31, 2011, or, in subsequent reports, during the previous year;

(B) a certification that the Russian Federation is in compliance with the terms of the New START Treaty, or a detailed discussion of any noncompliance by the Russian Federation;

(C) a certification that any conversion and elimination procedures adopted pursuant to Article VI of the New START Treaty and Part Three of the Protocol have not resulted in ambiguities that could defeat the object and purpose of the New START Treaty, or—

(i) a list of any cases in which a conversion or elimination procedure that has been demonstrated by Russia within the framework of the Bilateral Consultative Commission remains ambiguous or does not achieve the goals set forth in paragraph 2 or 3 of Section I of Part Three of the Protocol; and

(ii) a comprehensive explanation of steps the United States has taken with respect to each such case;

(D) an assessment of the operation of the New START Treaty's transparency mechanisms, including—

(i) the extent to which either Party encrypted or otherwise impeded the collection of telemetric information; and

(ii) the extent and usefulness of exchanges of telemetric information; and

(E) an assessment of whether a strategic imbalance exists that endangers the national security interests of the United States.

(11) STRATEGIC NUCLEAR DELIVERY VEHICLES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) modernize or replace the triad of strategic nuclear delivery systems: a heavy bomber and air-launched cruise missile, an ICBM, and an SSBN and SLBM; and

(B) maintain the United States rocket motor industrial base.

(12) TACTICAL NUCLEAR WEAPONS.—(A) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the United States will seek to initiate, following consultation with NATO allies but not later than one year after the entry into force of the New START Treaty, negotiations with the Russian Federation on an agreement to address the disparity between the non-strategic (tactical) nuclear weapons stockpiles of the Russian Federation and of the United States and to secure and reduce tactical nuclear weapons in a verifiable manner; and

(ii) it is the policy of the United States that such negotiations shall not include defensive missile systems.

(B) Not later than one year after the entry into force of the New START Treaty, and annually thereafter for the duration of the New START Treaty or until the conclusion of an agreement pursuant to subparagraph (A), the President shall submit to the Committees on Foreign Relations and Armed Services of the Senate a report—

(i) detailing the steps taken to conclude the agreement cited in subparagraph (A); and

(ii) analyzing the reasons why such an agreement has not yet been concluded.

(C) Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of—

(i) establishing cooperative measures to give each Party to the New START Treaty

improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and

(ii) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

(13) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate to the extent possible the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request full funding, including on a multi-year basis as appropriate, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

(14) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DEFENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and at the time of the exchange of instruments of ratification shall communicate to the Russian Federation, that it is the policy of the United States to continue development and deployment of United States missile defense systems to defend against missile threats from nations such as North Korea and Iran, including qualitative and quantitative improvements to such systems. Such systems include all phases of the Phased Adaptive Approach to missile defenses in Europe, the modernization of the Ground-based Midcourse Defense system, and the continued development of the two-stage Ground-Based Interceptor as a technological and strategic hedge. The United States believes that these systems do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

(b) UNDERSTANDINGS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following understandings, which shall be included in the instrument of ratification:

(1) MISSILE DEFENSE.—It is the understanding of the United States that—

(A) the New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of Article V of the New START Treaty, which states, ''Each Party shall not convert and shall not use ICBM launchers and SLBM launchers for placement of missile defense interceptors therein. Each Party further shall not convert and shall not use launchers of missile defense interceptors for placement of ICBMs and SLBMs therein. This provision shall not apply to ICBM launchers that were converted prior to signature of this Treaty for placement of missile defense interceptors therein.'';

(B) any additional New START Treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3 of Article V, including any limitations agreed under the auspices of the Bilateral Consultative Commission, would require an amendment to the New START Treaty which may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States;

(C) the April 7, 2010, unilateral statement by the Russian Federation on missile defense does not impose a legal obligation on the United States; and

(D) the preamble of the New START Treaty does not impose a legal obligation on the Parties.

(2) RAIL-MOBILE ICBMS.—It is the understanding of the United States that—

(A) any rail-mobile-launched ballistic missile with a range in excess of 5,500 kilometers would be an ICBM, as the term is defined in paragraph 37 of Part One of the Protocol (in the English-language numbering), for the purposes of the New START Treaty, specifically including the limits in Article II of the New START Treaty;

(B) an erector-launcher mechanism for launching an ICBM and the railcar or flatcar on which it is mounted would be an ICBM launcher, as the term is defined in paragraph 28 of Part One of the Protocol (in the English-language numbering), for the purposes of the New START Treaty, specifically including the limits in Article II of the New START Treaty;

(C) if either Party should produce a rail-mobile ICBM system, the Bilateral Consultative Commission would address the application of other parts of the New START Treaty to that system, including Articles III, IV, VI, VII, and XI of the New START Treaty and relevant portions of the Protocol and the Annexes to the Protocol; and

(D) an agreement reached pursuant to subparagraph (C) is subject to the requirements of Article XV of the New START Treaty and, specifically, if an agreement pursuant to subparagraph (C) creates substantive rights or obligations that differ significantly from those in the New START Treaty regarding a ''mobile launcher of ICBMs'' as defined in Part One of the Protocol to the New START Treaty, such agreement will be considered an amendment to the New START Treaty pursuant to Paragraph 1 of Article XV of the New START Treaty and will be submitted to the Senate for its advice and consent to ratification.

(3) STRATEGIC-RANGE, NON-NUCLEAR WEAPON SYSTEMS.—It is the understanding of the United States that—

(A) future, strategic-range non-nuclear weapon systems that do not otherwise meet the definitions of the New START Treaty will not be ''new kinds of strategic offensive arms'' subject to the New START Treaty;

(B) nothing in the New START Treaty restricts United States research, development, testing, and evaluation of strategic-range, non-nuclear weapons, including any weapon that is capable of boosted aerodynamic flight;

(C) nothing in the New START Treaty prohibits deployments of strategic-range non-nuclear weapon systems; and

(D) the addition to the New START Treaty of—

(i) any limitations on United States research, development, testing, and evaluation of strategic-range, non-nuclear weapon systems, including any weapon that is capable of boosted aerodynamic flight; or

(ii) any prohibition on the deployment of such systems, including any such limitations or prohibitions agreed under the auspices of the Bilateral Consultative Commission, would require an amendment to the New START Treaty which may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(c) DECLARATIONS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following declarations, which express the intent of the Senate:

(1) MISSILE DEFENSE.—(A) It is the sense of the Senate that—

(i) pursuant to the National Missile Defense Act of 1999 (Public Law 106–38), it is the policy of the United States ''to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)'';

(ii) defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail; and

(iii) further limitations on the missile defense capabilities of the United States are not in the national security interest of the United States.

(B) The New START Treaty and the April 7, 2010, unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the United States Government currently plans or that might be required over the duration of the New START Treaty to protect the United States pursuant to the National Missile Defense Act of 1999, or to protect United States Armed Forces and United States allies from limited ballistic missile attack, including further planned enhancements to the Ground-based Midcourse Defense system and all phases of the Phased Adaptive Approach to missile defense in Europe.

(C) Given its concern about missile defense issues, the Senate expects the executive branch to offer regular briefings, not less than twice each year, to the Committees on Foreign Relations and Armed Services of the Senate on all missile defense issues related to the New START Treaty and on the progress of United States-Russia dialogue and cooperation regarding missile defense.

(2) DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK.—It is the sense of the Senate that—

(A) a paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States Armed Forces, and United States allies against nuclear attacks to the best of its ability;

(B) policies based on ''mutual assured destruction'' or intentional vulnerability can be contrary to the safety and security of both countries, and the United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutual assured destruction;

(C) in a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating, strategic stability can be enhanced by strategic defensive measures;

(D) accordingly, the United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges;

(E) the United States will welcome steps by the Russian Federation also to adopt a fundamentally defensive strategic posture that no longer views robust strategic defensive capabilities as undermining the overall strategic balance, and stands ready to cooperate with the Russian Federation on strategic defensive capabilities, as long as such cooperation is aimed at fostering and in no way constrains the defensive capabilities of both sides; and

(F) the United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New

START Treaty is in effect, and such improvements are consistent with the Treaty.

(3) CONVENTIONALLY ARMED, STRATEGIC-RANGE WEAPON SYSTEMS.—Consistent with statements made by the United States that such systems are not intended to affect strategic stability with respect to the Russian Federation, the Senate finds that conventionally armed, strategic-range weapon systems not co-located with nuclear-armed systems do not affect strategic stability between the United States and the Russian Federation.

(4) NUNN-LUGAR COOPERATIVE THREAT REDUCTION.—It is the sense of the Senate that the Nunn-Lugar Cooperative Threat Reduction (CTR) Program has made an invaluable contribution to the security and elimination of weapons of mass destruction, including nuclear weapons and materials in Russia and elsewhere, and that the President should continue the global CTR Program and CTR assistance to Russia, including for the purpose of facilitating implementation of the New START Treaty.

(5) ASYMMETRY IN REDUCTIONS.—It is the sense of the Senate that, in conducting the reductions mandated by the New START Treaty, the President should regulate reductions in United States strategic offensive arms so that the number of accountable strategic offensive arms under the New START Treaty possessed by the Russian Federation in no case exceeds the comparable number of accountable strategic offensive arms possessed by the United States to such an extent that a strategic imbalance endangers the national security interests of the United States.

(6) COMPLIANCE.—(A) The New START Treaty will remain in the interests of the United States only to the extent that the Russian Federation is in strict compliance with its obligations under the New START Treaty.

(B) Given its concern about compliance issues, the Senate expects the executive branch to offer regular briefings, not less than four times each year, to the Committees on Foreign Relations and Armed Services of the Senate on compliance issues related to the New START Treaty. Such briefings shall include a description of all United States efforts in United States-Russian diplomatic channels and bilateral fora to resolve any compliance issues and shall include, but would not necessarily be limited to, a description of—

(i) any compliance issues the United States plans to raise with the Russian Federation at the Bilateral Consultative Commission, in advance of such meetings; and

(ii) any compliance issues raised at the Bilateral Consultative Commission, within thirty days of such meetings.

(7) EXPANSION OF STRATEGIC ARSENALS IN COUNTRIES OTHER THAN RUSSIA.—It is the sense of the Senate that if, during the time the New START Treaty remains in force, the President determines that there has been an expansion of the strategic arsenal of any country not party to the New START Treaty so as to jeopardize the supreme interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether adherence to the New START Treaty remains in the national interest of the United States.

(8) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in condition (1) of the resolution of advice and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols (commonly referred to as the ''INF Treaty''), approved by the Senate on May 27, 1988, and condition (8) of the resolution of advice and consent to the ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (commonly referred to as the ''CFE Flank Document''), approved by the Senate on May 14, 1997.

(9) TREATY MODIFICATION OR REINTERPRETATION.—The Senate declares that any agreement or understanding which in any material way modifies, amends, or reinterprets United States or Russian obligations under the New START Treaty, including the time frame for implementation of the New START Treaty, should be submitted to the Senate for its advice and consent to ratification.

(10) CONSULTATIONS.—Given the continuing interest of the Senate in the New START Treaty and in strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate expects the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of Article XIV of the New START Treaty.

(11) FURTHER STRATEGIC ARMS REDUCTIONS.—

(A) Recognizing the obligation under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, ''to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control,'' and in anticipation of the ratification and entry into force of the New START Treaty, the Senate calls upon the other nuclear weapon states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

(B) The Senate declares that further arms reduction agreements obligating the United States to reduce or limit the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(12) MODERNIZATION AND REPLACEMENT OF UNITED STATES STRATEGIC DELIVERY VEHICLES.—In accordance with paragraph 1 of Article V of the New START Treaty, which states that, ''Subject to the provisions of this Treaty, modernization and replacement of strategic offensive arms may be carried out,'' it is the sense of the Senate that United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles. To this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the continued flexibility of United States conventional and nuclear delivery systems.

The VICE PRESIDENT. Under the previous order, the President will be immediately notified of the Senate's consent to the resolution of ratification.

Mr. ENZI. Mr. President, I rise today to explain why I voted against the New START treaty. The U.S. Senate is the deliberative body of Congress. Our forefathers created the Senate so issues of this magnitude are thoroughly considered with all of the facts and with a careful eye on all possible future consequences. With previous treaties of this magnitude, the full Senate has been allowed over a full year to consider what the treaty would require of not only Russia but also the United States. That hasn't happened here, and it is a disconcerting trend.

The executive branches of both the Russian and the U.S. governments stated they will not take actions during the negotiations of this treaty that would be contrary to the spirit of the treaty. Both the Russian and U.S. governments recognize the treaty's implementation will take time. The need to get this treaty right is paramount.

I am concerned that I haven't had all of my specific questions answered about the treaty. Although members of the Foreign Relations Committee have had the opportunity to consider this treaty and ask many questions, the full Senate has not had the chance to have all of their questions answered. Forcing through a treaty without detailed scrutiny by the full Senate is not how our government should work.

Even with post-Cold War threats and adversaries, the nuclear balance between the United States and Russia remains a cornerstone to global non-proliferation. That's why each member of the Senate must determine if he or she believes this treaty will make our Nation safer. We can only do so if we have all the information about the treaty, and we can only make it better if we have the opportunity to fully amend the treaty.

During debate, we were repeatedly told that amending the treaty would kill it. That's just not true. Going back and forth on treaties is not new. As with the original START, which was signed in 1991, the U.S. Senate did not accept the first version and required that a better treaty be created.

We offered amendments that would have simply required that Russia be more involved in the changes this treaty will require, stressing the importance to the Russian government to create a safe global atmosphere similar to the United States. Those amendments were rejected. Only two amendments, one about modernization of the nuclear weapons complex and one stating that missile defense will proceed, were accepted by unanimous consent. The other amendments were either not considered or failed. It is now up to the Russian Duma to consider the suggested changes by the Senate's amendments and approve them or not. Both countries should be willing to work hard on this front and the best treaties, just like legislative bills, are those that are thoroughly considered by all involved with a willingness to comprehensively address all concerns and needs.

Beyond the issues of Senate processes, I have concerns about certain provisions in this treaty. It is impossible to fully consider this treaty without being able to review the full negotiating record, which has not been provided to all senators. Summaries have

been provided, but summaries do not include the specific information on how the full implementation of this treaty will be done.

As a founding member of the Senate ICBM Coalition, I strongly believe that all three legs of the nuclear triad—missiles, submarines, and bombers—must be maintained in order to retain a highly reliable and credible deterrent nuclear force. This need is even greater as we potentially draw down some of our nuclear forces through the New START treaty. I have worked with other members in the ICBM Coalition and with the administration to encourage them to ensure the treaty does not harm the triad. I appreciated the information provided by the administration on the treaty and the opportunity to meet on this issue during the floor debate. However, I remain deeply concerned about the implications the treaty will have on our country's national security, particularly its potential effects on the current missile force structure. Without the specific information on how the administration is going to implement the treaty and concrete assurances that the current missile force structure of 450 deployed and nondeployed silos be maintained, I remain skeptical of this agreement.

F.E. Warren Air Force Base in Cheyenne, WY, helps the United States maintain one leg of the triad by operating part of the ICBM force. It is my obligation as a Senator from Wyoming to know what effects this treaty will have on the missile defense missions in my home state. I also respect and watch out for the servicemembers in the 90th Space Command and 20th Missile Command who work hard to ensure our country has a strong missile defense. I have not yet been able to get a firm commitment from my Senate colleagues and the administration on a concrete number of missiles that will be maintained under this treaty.

Furthermore, the treaty will require unilateral reductions from the United States with no similar requirements for Russia. Instead, the Russian government is actually given room to build up its nuclear forces with more modern capabilities.

Regardless of this agreement, the United States has not thoroughly addressed the modernization of our country's nuclear capabilities. I have spoken with those involved in the treaty negotiations regarding U.S. modernization. I was told that the modernization efforts are in the works and the funding for these activities is planned. I support this more focused modernization approach. Part of the need for U.S. modernization is to address our Nation's tactical weapons capabilities. As currently written, the treaty will leave Russia in a 10–1 advantage in tactical nuclear weapons. This is disconcerting and modernization must be a priority.

I have concerns about verifiability as well. Former Secretary of State James Baker has described the treaty's verification regime as weaker than its predecessor. If the United States is going to make reductions to our capabilities under this treaty, we should ensure that Russia is doing the same and following the treaty as closely as our country will. We should not settle for some verification—we must require full verification. Second best will do the United States no good in terms of intelligence and response capabilities.

Back in 2002, I traveled to Russia with the University of Georgia to talk about nonproliferation. At that time, I expressed serious concerns not only about Russia's capabilities to secure their nuclear complex, but also to ensure that their nuclear scientists and their knowledge did not become available to bad actors like al-Qaida. Ensuring that Russia continues to keep their capabilities and know-how secure is imperative and cannot be left to second best.

Our two nations may approach nuclear agreements with different goals, but the fact that the United States and Russian governments maintain a dialogue is a highly positive fact. We need and want the cooperation of our counterparts in Russia in both bilateral and multilateral efforts. This is highlighted in the United Nations Security Council discussions on nuclear weapons development in Iran, North Korea, and other actors.

We want and need to create a safer world while maintaining our defensive capabilities for ourselves and our allies. By forcing debate on this treaty during the lame duck session, I do not believe we were able to fully address all concerns in the detail that was warranted. We needed to be sure the treaty does what we expect it to do without any surprises. I am not convinced we will not see any surprises in the future. Thus, I voted against the New START treaty.

NOMINATION OF MARY HELEN MURGUIA TO BE A U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The VICE PRESIDENT. Under the previous order, the question occurs on the following nomination, which the clerk will report.

The assistant legislative clerk reported the nomination of Mary Helen Murguia, of Arizona, to be a U.S. Circuit Judge for the Ninth Circuit.

The VICE PRESIDENT. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I support the nomination of Judge Mary Murguia to the Ninth Circuit Court of Appeals.

Judge Murguia has served on the Federal district court in Arizona for a decade and has a distinguished record that has earned the respect of the legal community in Arizona.

Perhaps most telling is the high regard in which Judge Murguia is held by her colleagues on the district court; they come from different backgrounds and were appointed by presidents of both parties, but they all speak very highly of her.

Judge Murguia was approved by the Judiciary Committee by a vote of 19 to 0. That unanimous vote is an indication of the strength of her record.

Finally, as I mentioned at Judge Murguia's hearing, Judge Murguia's brother Carlos is the first Latino to serve as Federal district court judge in Kansas. Judge Murguia was the first Latina to be appointed to the Federal district court in Arizona and she and Carlos are the only brother and sister sitting as Federal judges in the United States.

I am confident that Judge Murguia is a person of integrity who will do her best to be a fair and objective judge.

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

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, today, the Senate is finally being allowed to consider a judicial nomination that has been stalled since August—the nomination of Judge Mary Murguia of Arizona to serve on the United States Court of Appeals for the Ninth Circuit. I would understand the resistance to considering the nomination if President Obama had selected someone opposed by her home state Senators. But both Republican home state Senators support this nomination. Unlike his predecessor, President Obama has worked with home state Senators, including Republican Senators. Despite all his efforts, this consensus nominee has been stalled for months and months while awaiting final Senate action.

When the nomination was considered by the Judiciary Committee before the August recess, it was reported unanimously. Every Republican and every Democrat, all 19 members of the Judiciary Committee, voted in favor of her nomination. Still, she has been stalled for months and months. This is part of the dangerous pattern perpetrated the past two years as President Obama's highly-qualified judicial nominees have been stalled from final Senate action for extended periods. This is another example of the unnecessary delays that have led to a judicial vacancies crisis throughout the country. Judicial vacancies have skyrocketed to over 100 while nominations are forced to languish without final Senate action. In fact, President Obama's nominees have been forced to wait on average six times longer to be considered than President Bush's judicial nominees reported by the Judiciary Committee during the first 2 years of his Presidency.

When the Senate is finally allowed to take action, most of his nominations are confirmed by overwhelming bipartisan majorities or unanimously. Final Senate action on dozens of President Obama's judicial nominations has been delayed without explanation or good reason and then confirmed unanimously. The most outrageous examples

are Judge Barbara Keenan of Virginia, who was confirmed unanimously to the Fourth Circuit, and Judge Denny Chin of New York, who was confirmed unanimously to the Second Circuit. Both required cloture petitions to end the filibusters against their confirmations and then they were each confirmed unanimously.

Others confirmed unanimously after months of delay are Judge James A. Wynn, Jr. of North Carolina, who was finally confirmed to the Fourth Circuit after almost 6 months of delay; Judge Albert Diaz of North Carolina, who was finally confirmed to the Fourth Circuit after almost 11 month's delay; Judge Ray Lohier of New York, who was finally confirmed to the Second Circuit after almost 8 months of delay; Judge Beverly Martin of Tennessee, who was finally confirmed to the Eleventh Circuit after more than 4 months of delay; and James Greenaway of New Jersey, who was finally confirmed to the Third Circuit after almost 4 months of delay. I expect Scott Matheson of Utah to be confirmed unanimously to the Tenth Circuit, but not until there have been 6 months of unnecessary delay. I will not be surprised if Judge Murguia is confirmed unanimously, or nearly unanimously, after 4 unnecessary months of delay.

Examples of district court nominees who have been delayed for between 3 and 7 months before being confirmed unanimously are: Judge Kimberly J. Mueller of the Eastern District of California, Judge Catherine Eagles of the Middle District of North Carolina, Judge John A. Gibney, Jr. of the Eastern District of Virginia, Judge Ellen Hollander of the District of Maryland, Judge Susan R. Nelson of the District of Minnesota, Judge James Bredar of the District of Maryland, Judge Carlton Reeves of the Southern District of Mississippi, Judge Edmond Chang of the Northern District of Illinois, Judge Leslie E. Kobayashi of the District of Hawaii, and Judge Denise Casper of the District of Massachusetts.

Ten years ago, Mary Murguia became the first Latina to serve as a Federal Judge in Arizona when she was nominated by President Clinton to serve on the U.S. District Court for the District of Arizona. She will now become the first Hispanic—and only the second woman—from Arizona to serve on the Ninth Circuit. I congratulate Judge Murguia and her family on her confirmation by the Senate today.

The VICE PRESIDENT. The yeas and nays have been ordered.

The question is, shall the Senate advise and consent to the nomination of Mary Helen Murguia, of Arizona, to be a U.S. Circuit Judge for the 9th Circuit.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Iowa (Mr. HARKIN), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Michigan (Ms. STABENOW), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Kansas (Mr. BROWNBACK), the Senator from Missouri (Mr. BOND), the Senator from Tennessee (Mr. Alexander), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''yea'' and the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea.''

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 299 Ex.]

YEAS—89

Akaka	Enzi	McConnell
Barrasso	Feinstein	Menendez
Baucus	Franken	Merkley
Bayh	Gillibrand	Mikulski
Begich	Graham	Murkowski
Bennet	Grassley	Murray
Bennett	Gregg	Nelson (NE)
Bingaman	Hagan	Nelson (FL)
Boxer	Hatch	Pryor
Brown (MA)	Hutchison	Reed
Brown (OH)	Inhofe	Reid
Burr	Inouye	Risch
Cantwell	Isakson	Rockefeller
Cardin	Johanns	Sanders
Carper	Johnson	Schumer
Casey	Kerry	Sessions
Chambliss	Kirk	Shaheen
Coburn	Klobuchar	Shelby
Cochran	Kohl	Snowe
Collins	Kyl	Specter
Conrad	Landrieu	Tester
Coons	Lautenberg	Thune
Corker	Leahy	Udall (CO)
Cornyn	LeMieux	Udall (NM)
Crapo	Levin	Voinovich
DeMint	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	Manchin	Wicker
Ensign	McCain	

NOT VOTING—11

Alexander	Feingold	Stabenow
Bond	Harkin	Vitter
Brownback	McCaskill	Wyden
Bunning	Roberts	

The nomination was confirmed.

NOMINATION OF SCOTT M. MATHESON, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the question occurs on the following nomination, which the clerk will report.

The legislative clerk read the nomination of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit.

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President shall be immediately notified of the Senate's action.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the following nominations are considered and confirmed en bloc: Calendar No. 1119, No. 1120, and No. 1139. The motions to reconsider are considered made and laid upon the table en bloc, and the President shall be immediately notified of the Senate's action.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Kathleen M. O'Malley, of Ohio, to be United States Circuit Judge for the Federal Circuit.

Beryl Alaine Howell, of the District of Columbia, to be United States District Judge for the District of Columbia.

Robert Leon Wilkins, of the District of Columbia, to be United States District Judge for the District of Columbia.

Mr. BROWN of Ohio. Mr. President, I am very pleased that the Senate has voted to confirm Judge Kathleen McDonald O'Malley to the U.S. court of appeals for the Federal circuit.

The Nation's gain is Ohio's loss. But it is also a proud day for us.

As a child Kate was blessed with wisdom beyond her years. At the age of 12 she was asked what she wanted to be when she grew up. She replied that she wanted to become a Federal judge.

And she excelled in school—high school, college, and law school. She graduated Phi Beta Kappa from Kenyon College in 1979 and first in her class at Case Western Reserve Law School in 1982.

After law school she clerked for the Sixth Circuit Court of Appeals for the distinguished Judge Nathaniel R. Jones, who is one of her major influences and who considers Kate to be like family.

After her clerkship with Judge Jones, Judge O'Malley spent several years in private practice, where she gained invaluable experience representing numerous large corporations in addition to medium-sized and small businesses.

She became an expert in complex corporate litigation, patent and intellectual property cases—experience that will serve her well as a Circuit Judge in the Federal circuit.

She translated her private sector experience into a distinguished career in public service as chief counsel and chief of staff for then-Ohio attorney general Lee Fisher.

Recognizing her talents, Ohio Senators Howard Metzenbaum and John Glenn recommended her to President Clinton for a place on the Federal bench.

On September 20, 1994, President Clinton nominated her to serve on the Federal bench as a U.S. district judge for the Northern District of Ohio.

When she began her service in the Northern District of Ohio, Judge

O'Malley was among the youngest judges serving on the Federal bench.

Since then, she has served the Northern District of Ohio with distinction.

In addition to having a great legal mind, she is an innovator. She has spearheaded national efforts to integrate cutting edge technologies into courtrooms—ensuring that the administration of justice is equal, fair, and open for all who seek it.

Judge O'Malley will make an outstanding judge on the U.S. court of appeals for the Federal circuit, and I congratulate her on her confirmation.

JUDICIAL CONFIRMATIONS

Mr. LEAHY. Mr. President, at long last, the Senate is being allowed to consider long-pending, consensus judicial nominations. This action has been long overdue. President Obama has reached out and worked with Senators from both sides of the aisle in selecting well-qualified judicial nominees. As chairman of the Judiciary Committee, I have bent over backwards to be fair to all sides. There has been consultation and a thorough and fair process for evaluating nominations.

Scott M. Matheson is finally being confirmed to become a Federal circuit judge for the U.S. Court of Appeals for the Tenth Circuit. In his 30-year legal career, he has been both a State and a Federal prosecutor, worked in private practice, and served on the faculty of the S.J. Quinney College of Law at the University of Utah, including 8 years as the school's dean. The Judiciary Committee unanimously reported his nomination on June 10, more than 6 months ago. We did so unanimously. The Republican Senators from Utah supported this nomination. It has still taken more than 6 months to get a Senate vote.

Ten years ago, Mary Murguia became the first Latina to serve as a Federal judge in Arizona when she was nominated by President Clinton to serve on the U.S. District Court for the District of Arizona. She will now become the first Hispanic—and only the second woman—from Arizona to serve on the Ninth Circuit. The Judiciary Committee unanimously voted to report her nomination favorably more than 4 months ago. Judge Murguia's nomination was supported by her home State Senators, both Republicans. It has still taken more than 4 months to get a Senate vote.

Kathleen M. O'Malley has for the last 16 years served as a Federal judge in the Northern District of Ohio. When Judge O'Malley, a breast cancer survivor, was appointed to that court in 1994, she was one of the two youngest women on the Federal bench. She has been nominated to serve on the U.S. Court of Appeals for the Federal Circuit. The Judiciary Committee unanimously reported her nomination to the Federal Circuit in September, 3 months ago. The Committee received a letter of support from Senator VOINOVICH, who urged an expeditious confirmation process. It has still taken 3 months to get a Senate vote.

The Senate is finally being allowed to fill some of the vacancies on the hard-pressed U.S. District Court for the District of Columbia. The Judiciary Committee unanimously reported the nominations of Beryl Howell and Robert Wilkins back in September. It has taken 3 months to get Senate votes. The chief judge of the District Court for the District of Columbia wrote the Senate some time ago urging prompt action to fill the four vacancies that exist on that Court.

There was a time when having served for 10 years as a respected member of the Judiciary Committee staff would lead to expeditious consideration of a nomination. For example, when Kristi Lee Dubose of Alabama, who had served on Senator Sessions' Judiciary Committee staff, was nominated, her hearing was expedited despite the lack of an ABA peer review, her nomination was reported by the committee within 2 days of her hearing and that nomination was then confirmed promptly. Indeed, the time Judge Dubose's questionnaire was received by the committee to the date of her confirmation was 61 days, which includes a 3-week recess period.

By contrast, Ms. Howell's nomination was delayed after her hearing for 57 days before the committee was allowed to vote and has been stalled for 89 days on the Senate Executive Calendar. Since her questionnaire was received by the committee, it has been 160 days. This is no reflection on Ms. Howell, whose credentials, work experience, temperament, and qualifications are beyond reproach.

There are more than a dozen additional consensus judicial nominations that have been through the entire process but are being denied a final vote. I know of no precedent for this. Indeed, in the lameduck session at the end of President Bush's second year in office, we proceeded to report and confirm controversial circuit court nominees. That the Senate is not being allowed to consider these consensus nominees is a shame and an unnecessary burden on them and their families and for the courts and people they would serve. It is a travesty that all of the well-qualified nominees favorably reported by the Judiciary Committee could not be confirmed before this Congress adjourns. That is what we did when we confirmed 100 judicial nominees of President Bush in 2001 and 2002. All 100 of the nominees reported favorably by the Judiciary Committee received Senate votes and were confirmed—all 100. They include 20 during the lameduck session that year and circuit court nominees reported after the election.

This year, consensus nominees are not being allowed to be considered. These nominees include one unanimously reported circuit court nominee and another circuit court nominee supported by 17 of the 19 Senators on the Judiciary Committee.

President Obama has nominated James E. Graves to fill one of two emergency vacancies on the Fifth Circuit. Currently, Justice Graves is the only African American on the Mississippi Supreme Court. If confirmed, he would be the second African American to sit on the Fifth Circuit, the first from Mississippi. His nomination has the strong support of both of his Republican home State Senators. The ABA Standing Committee on the Federal Judiciary unanimously rated him ''well qualified'', its highest possible rating. The Judiciary Committee reported him unanimously. Yet he is not being allowed a vote.

Susan Carney is nominated to fill one of 3 emergency vacancies on the Second Circuit. After working for 17 years in private practice, she served as associate general counsel of the Peace Corps, and she is currently the deputy general counsel of Yale University. Ms. Carney's nomination has the strong support of both of her home State Senators. Her nomination was reported with the support of five of the seven Republicans serving on the Judiciary Committee and by a vote of 17 to 2. She is not being allowed a vote.

There are 13 more district court nominees who were reported unanimously by the Judiciary Committee that the Senate is not being allowed to consider.

President Obama nominated Amy Totenberg to fill an emergency vacancy on the U.S. District Court for the Northern District of Georgia in March. Ms. Totenberg's nomination has the support of her two Republican home state Senators. Currently a lawyer in private practice in Atlanta, she also serves as a special master for the U.S. District Court for the District of Maryland and as a court-appointed mediator for the U.S. District Court for the District of Columbia. Previously, she was general counsel to the Atlanta Board of Education and a part-time municipal court judge. She earned the highest possible rating, unanimously ''well qualified,'' from the ABA Standing Committee on the Federal Judiciary. Her nomination was reported unanimously by the Judiciary Committee.

James E. Boasberg was nominated to fill another of the vacancies on the U.S. District Court for the District of Columbia. Since 2002, Judge Boasberg has served as a judge on the Superior Court of the District of Columbia, a position to which he was appointed by President George W. Bush. Previously, Judge Boasberg was a Federal prosecutor and an attorney in private practice. The ABA Standing Committee on the Federal Judiciary rated him unanimously ''well qualified,'' its highest possible rating, to become a Federal judge. His nomination was reported unanimously by the Judiciary Committee.

Amy Berman Jackson was nominated to fill the other current vacancy on the U.S. District Court for the District of

Columbia. Ms. Jackson is currently a partner at the Washington, D.C., law firm Trout Cacheris.? Previously, she was a partner in Venable's Washington, D.C., office, and she also served as a Federal prosecutor in the District of Columbia. Ms. Jackson earned the highest possible rating, unanimously ''well qualified,'' from the ABA Standing Committee on the Federal Judiciary. Her nomination was reported unanimously by the Judiciary Committee.

President Obama nominated James E. Shadid to fill an emergency vacancy on the U.S. District Court for the Central District of Illinois, a court that currently has only one active judge. Judge Shadid is currently a judge on the Tenth Judicial Circuit in Peoria County, IL. Previously, he was a sole practitioner in Peoria, a part-time commissioner on the Illinois Court of Claims, and a part-time assistant public defender in the Peoria County Public Defender's Office. When he was appointed to serve as a State judge, Judge Shadid became the first Arab-American judge in Illinois. He will become the only Federal Arab-American judge in the State and one of only approximately four Arab-American Federal judges in the country. His nomination was reported unanimously by the Judiciary Committee.

Sue E. Myerscough was also nominated to fill an emergency vacancy on the U.S. District Court for the Central District of Illinois. She is currently the presiding justice on the Fourth District Appellate Court of Illinois, and she previously sat on the Seventh Judicial Circuit of Illinois, first as associate judge and then as circuit judge. In all, Justice Myerscough has more than 23 years of judicial experience. She also serves as an adjunct associate professor in the Department of Medical Humanities at the Southern Illinois University School of Medicine. Justice Myerscough was first nominated to serve as a Federal judge in 1995, but her nomination was returned to the President after the Senate failed to act on it. Her nomination was reported unanimously by the Judiciary Committee.

President Obama nominated Paul K. Holmes, III, to fill an emergency vacancy on the U.S. District Court for the Western District of Arkansas. Mr. Holmes is currently of counsel at the Fort Smith, AR, law firm where he formerly worked for more than two decades as an associate and a partner. Previously, he was the U.S. attorney for the Western District of Arkansas. As U.S. attorney, Holmes served for 2 years on the Attorney General's Advisory Committee. Mr. Holmes earned the highest possible rating—unanimously ''well qualified''—from the ABA Standing Committee on the Federal Judiciary, and he has the strong support of his two home State Senators. His nomination was reported unanimously by the Judiciary Committee.

Anthony J. Battaglia was nominated to become a Federal judge on the U.S. District Court for the Southern District of California, the court he has served as a magistrate Judge for 17 years. He is a former president of the Federal Magistrate Judges Association and of the San Diego County Bar Association. Prior to taking the bench, Judge Battaglia worked for nearly two decades as a civil litigator in private practice. He has the strong support of both of his home State Senators, and the ABA Standing Committee on the Federal Judiciary gave him its highest possible rating, unanimously ''well qualified.'' His nomination was reported unanimously by the Judiciary Committee.

Judge Edward J. Davila was nominated to fill an emergency vacancy on the U.S. District Court for the Northern District of California. Currently a judge on the Superior Court of California, Judge Davila previously spent 20 years as a trial lawyer, first as a deputy public defender in the Santa Clara County Public Defender's Office and then as a lawyer in private practice. He also has taught trial advocacy course sessions at Stanford Law School, Santa Clara University School of Law, and the University of San Francisco School of Law. If confirmed, Judge Davila will become the first Latino to take the Federal bench in the Bay area in more than 15 years. He has the strong support of his two home State Senators. His nomination was reported unanimously by the Judiciary Committee.

President Obama nominated Diana Saldana to fill an emergency vacancy in the Southern District of Texas, the district she has served as a magistrate judge since 2006. Before taking the bench, Judge Saldana served the Southern District for 5 years as a Federal prosecutor, and she previously was a lawyer in private practice and a trial attorney in the Civil Rights Division of the U.S. Department of Justice. The child of migrant farm workers, Judge Saldana began working alongside her family in the sugar beet fields at age 10, and she continued to do so for more than a decade. After graduating from law school, she served as a law clerk to then-Chief Judge George P. Kazen. If confirmed, Judge Saldana will fill the vacancy created by Judge Kazen's retirement. Judge Saldana earned the highest possible rating—unanimously ''well qualified''—from the ABA Standing Committee on the Federal Judiciary. She has the strong support of her two Republican home State Senators. Senator CORNYN called her ''one of the toughest law enforcers in South Texas,'' and Senator HUTCHISON added that Judge Saldana ''has some of the finest qualities we expect in our judges.'' Her nomination was reported unanimously by the Judiciary Committee.

Max O. Cogburn was nominated to sit on the U.S. District Court for the Western District of North Carolina, the district that he previously served for 9 years as a magistrate judge and for 12 years as an assistant U.S. attorney. Mr. Cogburn is currently a partner in the Asheville, NC, law firm, Cogburn and Brazil, and he also serves as an appointed member of the North Carolina Education Lottery Commission. In addition to practicing law, Mr. Cogburn owns and maintains with his siblings the Pisgah View Ranch, a dude ranch that has been in his family for generations. Mr. Cogburn has the strong, bipartisan support of his two home State Senators, a Republican and a Democrat. His nomination was reported unanimously by the Judiciary Committee.

Marco A. Hernandez was nominated to fill an emergency vacancy on the U.S. District Court for the District of Oregon. He has served as a judge in Oregon's 20th Judicial District for the last 15 years, first on the district court and now as a circuit court judge. Previously, Judge Hernandez was a deputy district attorney in Washington County, OR, and a lawyer for Oregon Legal Services. Judge Hernandez has the strong support of his two home State Senators, and he has now been nominated to this position by Presidents of both parties. If confirmed, he will become the first Latino to serve as a Federal Judge in Oregon. His nomination was reported unanimously by the Judiciary Committee. I also note that Senator SESSIONS made quite a fuss that he was not confirmed at the end of the Bush administration while Senator SESSIONS proceeded to delay Committee consideration of his nomination and while Republicans still refuse to allow it to be considered before adjournment.

President Obama nominated Steve Jones to fill an emergency vacancy on the U.S. District Court for the Northern District of Georgia. For the last 15 years, Judge Jones has been a superior court judge in the Tenth Superior Court District of Georgia, and he currently serves that district as the presiding judge on the Felony Drug Court as well. Previously, he was a judge on the Athens-Clarke County Municipal Court and an assistant district attorney for the Western Judicial Circuit. Judge Jones was the first African American to serve the Western Judicial Circuit as a superior court judge. He will be the only active African-American judge on the Northern District of Georgia and one of only two active African-American judges in the State. Judge Jones earned the highest possible rating—unanimously ''well qualified''—from the ABA Standing Committee on the Federal Judiciary, and he has the strong support of his two Republican home State Senators. His nomination was reported unanimously by the Judiciary Committee.

Michael Simon was nominated to the U.S. District Court for the District of Oregon. He is currently a partner at the law firm of Perkins Coie LLP, where he serves as head of the litigation practice at the Portland office. In that capacity, Mr. Simon has handled

several high-profile first amendment cases on a pro-bono basis. Before joining that firm, Mr. Simon was a trial attorney in the Antitrust Division of the U.S. Department of Justice. Mr. Simon has the strong support of his two home State Senators. His nomination was reported by the Committee with strong bipartisan support.

These consensus nominees are in addition to the other highly qualified nominations on which the Senate has not been allowed to vote for many months.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Illinois.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate move to morning business with Senators allowed to speak for up to 10 minutes each.

Mr. McCAIN. Mr. President, reserving the right to object, if I could.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I would say to the Senator from Illinois that I have an agreement with everybody on a 6-week extension of the Trade Adjustment Assistance and the Trade Preference Act, and on both sides everybody has agreed.

I know I can't do that in morning business, so I ask unanimous consent, as soon as it is written up, that I be permitted to propose that legislation.

Mr. DURBIN. I have no objection to your bringing it up whenever it is prepared, and we will of course consider it at that time.

I thank the Senator for his work on this effort.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Republican leader.

FIRST RESPONDERS BILL

Mr. McCONNELL. Mr. President, I am delighted the Senate was able to reach an agreement to provide health care for the men and women who helped in the rescue, recovery, and cleanup efforts after the 9/11 attacks.

In the years since then, as we all know, a number of these brave Americans have become ill. Today represents an important step in making sure they receive the care they need as a result of their extraordinary service. No one has ever questioned whether to provide the care they need. The only question was how to do so.

Like many of my colleagues, I have been concerned that attempts to rush this legislation at the end of the session would prevent us from ensuring the bill was written in a responsible fashion. I still believe this cause and this legislation would have benefited from a bipartisan committee process. But thanks to the hard work of a number of Senators—most notably Senators COBURN and ENZI and their staffs—we have come a long way in improving this bill.

We have made sure that more compensation will go to victims than trial lawyers. It has got improved oversight, so money isn't siphoned away from the people who need it. We put time limits on the legislation so Congress can come back and review what has worked and where improvements can be made. So this is a much better product.

Some have tried to portray this debate as a debate between those who support 9/11 workers and those who don't. This is a gross distortion of the facts. There was never any doubt about supporting the first responders. It was about doing it right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding the Senator from Hawaii has to make a quick departure, so I ask he be recognized after this quick request.

HELPING HEROES KEEP THEIR HOMES ACT OF 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4058 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 4058) to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 4058) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4058

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 ''Helping Heroes Keep Their Homes Act of 2010''.

SEC. 2. EXTENSION OF ENHANCED PROTECTIONS FOR SERVICEMEMBERS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURE UNDER SERVICEMEMBERS CIVIL RELIEF ACT.

Paragraph (2) of section 2203(c) of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) is amended—

(1) by striking ''December 31, 2010'' and inserting ''December 31, 2012''; and

(2) by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

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

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

Mr. AKAKA. Mr. President, I rise today to reaffirm my strong commitment to have the Native Hawaiian Government Reorganization Act enacted into law. This bill is of great importance to all of the people of Hawaii. The bill would simply put the State of Hawaii on equal footing with the rest of the country in the treatment of its indigenous people. It provides a process for the reorganization of a Native Hawaiian governing entity. However, since I first introduced this commonsense bill 10 years ago, it has been the subject of misleading attacks and procedural hurdles, and has never had the opportunity for an up-or-down vote here on the Senate floor.

Earlier this month, a handful of my colleagues who oppose this measure put out a press release, fueling speculation that I was seeking to attach this bill to must-pass, end-of-session legislation. One of these colleagues said that this measure—and I quote, ''should be brought up separately and debated openly on the Senate floor with the opportunity for amendment.''

I could not agree more.

A structured debate followed by an up-or-down vote on this legislation is long overdue. The people of Hawaii have waited for far too long.

This Congress, the bill was favorably reported by the Senate Committee on Indian Affairs, and it was passed by the House of Representatives. Despite this, it was not given an opportunity to be debated and voted on, here on the Senate floor.

I am deeply disappointed that we did not have the opportunity to consider this bill during the 111th Congress. This historic Congress saw a great many accomplishments on behalf of the American people, but tragically, it also saw unprecedented obstruction.

I remain committed to passing this bill. I am hopeful that, when we convene next year in the new Congress, I can count on every one of my colleagues to be supportive of my efforts to bring this bill to the Senate floor.

The Native Hawaiian Government Reorganization Act is a Hawaii-specific measure. In the long traditions of the U.S. Senate, it was considered a courtesy to stand with your colleagues on matters specifically addressing the needs of their home State. This civility seems to have vanished from this Chamber.

It is frustrating to me that some of my colleagues have worked aggressively to block this bill. For some reason, they have made it a priority to prevent the people of my State from moving forward to resolve issues caused by the illegal overthrow of the Native Hawaiian government in 1893.

This bill has widespread support among elected leaders and the citizens of Hawaii. Both chambers of the Hawaii State Legislature have voiced their support of the measure, and our new Governor, Neil Abercrombie, was the chief sponsor of the bill in the U.S. House of Representatives. This legislation is also supported by community and civic organizations, including the Association of Hawaiian Civic Clubs and the Council for Native Hawaiian Advancement, and the Office of Hawaiian Affairs, a State agency.

The bill also has broad support outside of Hawaii. Indigenous leaders and community organizations across the United States support the bill, such as the Alaska Federation of Natives and the National Congress of American Indians.

The American Bar Association sent a letter this year to Members of the Senate reaffirming its support and outlining the sound Constitutional basis for the legislation. The ABA wrote, ''The right of Native Hawaiians to use the property held in trust for them and the right to govern those assets are not in conflict with the Equal Protection Clause since they rest on independent constitutional authority regarding the rights of native nations contained in Articles I and II of the Constitution.'' Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

(See exhibit 1.)

Mr. AKAKA. The bill also has the support of the Obama Administration. When the measure passed the House in February of this year, the White House Press Secretary issued a statement noting that President Obama, ''looks forward to signing the bill into law and establishing a government-to-government relationship with Native Hawaiians.'' And earlier this month, Attorney General Eric Holder and Secretary of the Interior Ken Salazar wrote to the Senate Leaders to reiterate the administration's support for the Native—Hawaiian Government Reorganization Act, and to make note of the urgent need for this bill. The letter reads, ''Of the Nation's three major indigenous groups, Native Hawaiians—unlike American Indians and Alaska Natives—are the only one that currently lacks a government-to-government relationship with the United States.'' I ask unanimous consent to have a copy of this letter printed in the RECORD.

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

(See exhibit 2.)

Mr. AKAKA. Opponents have spread misinformation about the bill. Let me set the record straight. This bill does not allow Hawaii to secede from the United States. It does not allow private lands to be taken. It does not authorize gaming in Hawaii.

Opponents of the bill also distort the history of the Native Hawaiian people. I welcome the chance to speak with any of my colleagues about the history of my great State and of its indigenous people. I want to help you understand why this bill is necessary for Hawaii to move forward, and how it is consistent with the United States' existing policies of Federal recognition for Alaska Natives and American Indians.

Opponents also point to a vocal minority in Hawaii who oppose this bill. The reality is that this legislation is strongly supported by the people of Hawaii. A poll conducted by the Honolulu Advertiser in May of this year found that 66 percent of people in Hawaii support Federal recognition for Native Hawaiians. Of the poll participants, 82 percent identifying themselves as Native Hawaiians said they support Federal recognition. Mr. President, I ask unanimous consent to have this article printed in the RECORD.

(See exhibit 3.)

Mr. AKAKA. This year marked the commemoration of the 200th anniversary of the unification of the Hawaiian Islands into one kingdom, under King Kamehameha. This year also marked 51 years of statehood and more than 100 years since Hawaii became a United States territory. And yet the people of Hawaii have still not been given the chance to participate in a government-to-government relationship similar to those already extended to this Nation's other indigenous people.

I have worked tirelessly to educate my colleagues on the importance of this bill. I hope that you will continue to welcome my efforts to speak with you. I extend my heartfelt aloha and mahalo, thank you, to the many, many supporters who have worked to advocate for this legislation. Your support makes a difference and is greatly appreciated. I thank my colleague, Chairman DORGAN, who has been a great friend of mine and to the people of Hawaii. His leadership on this issue will be missed.

My work to enact this bill is not over. I look forward to having the opportunity to debate this bill on its merits. I will not give up until the Native Hawaiian people have the same rights to self-governance already afforded to the rest of the Nation's indigenous people.

Mr. President, mahalo—thank you—to all of my colleagues for listening to this matter of great importance to me and my State. I yield back the remainder of my time.

EXHIBIT 1

SEPTEMBER 28, 2010.

U.S. Senate,
Washington, DC

DEAR SENATOR: On behalf of the American Bar Association, which has nearly 400,000 members nationwide, I urge your support for H.R, 2134, the Native Hawaiian Government Reorganization Act of 2010. The legislation, as amended, passed the House of Representatives with bipartisan support early in the session and was placed on the Senate calendar where it is still awaiting Senate floor action. As amended, H.R. 2314 is supported by the White House, the Department of Justice, Hawaii's Congressional Delegation and the Governor of Hawaii.

The ABA has a long-standing interest in the legal issues concerning America's native and indigenous peoples. Over the past twenty years, our House of Delegates has adopted numerous policies supporting self-determination and self-governance for American Indians and Alaska Natives. In 2006, the ABA adopted policy specifically supporting the right of Native Hawaiians to seek federal recognition of a native governing entity within the United States similar to that which American Indians and Alaska Natives possess under the U.S. Constitution.

H.R. 2314 would establish a process that would lead eventually to the formation of a native governing entity that would have a government-to-government relationship with the United States. Developed by Native Hawaiians, this federally recognized entity would serve, maintain and support their unique cultural and civic needs and advocate on their behalf at the federal and state levels. Prior to the overthrow of the Hawaiian monarchy in 1893 by U.S. agents acting without official sanction, Native Hawaiians lived under an organized political framework governed by the rule of law. This Kingdom had a written constitution and was recognized by the U.S. government as a sovereign nation. Congress ratified treaty agreements with it and recognized its representatives.

In addition to establishing a lasting trust relationship with the Native Hawaiian people after the coup, Congress acknowledged the illegal overthrow of the Kingdom of Hawaii, issued a formal apology to the Native Hawaiian people in 1993, and has consistently supported reconciliation efforts. Congressional support for legislation that would lead to a process for federal recognition for Native Hawaiians is the next logical step.

Opponents of this legislation claim that allowing Native Hawaiians the right to self governance would imperil the constitutional rights of non-Native Hawaiians to equal protection under the law. They point to the former Kingdom's wealth and claim that self-determination will create a system of benefits disadvantaging those who are not of Native Hawaiian heritage. However, Native Hawaiians, in seeking rights and privileges that other indigenous people of the United States enjoy under our system of law, are not compromising the rights of others but exercising their own rights to property, to self-determination, and to be recognized as an indigenous people by Congress.

The right of Native Hawaiians to use of the property held in trust for them and the right to govern those assets are not in conflict with the Equal Protection Clause since they rest on independent constitutional authority regarding the rights of native nations contained in Articles I and II of the Constitution. The constitutional framers recognized the existence of native nations within the United States that predated our own democracy and created a system for federal recognition of indigenous nations within our then expanding borders.

The framers empowered Congress through the Indian Commerce Clause and the Treaty Clause to maintain relations between the U.S. federal government and the governments of these native nations. Our courts have upheld Congress' power to recognize indigenous nations and have specifically recognized that this power includes the power to re-recognize nations whose recognition has been terminated in the past. Thus, the Native Hawaiians have the right to be recognized by the Congress, this right is not in conflict with the rights of others, and this recognition may be renewed despite historical lapses.

The American Bar Association urges you to support the rights of Native Hawaiians to self-determination by voting for H.R. 2314.

Sincerely,

THOMAS M. SUSMAN.

EXHIBIT 2

DECEMBER 9, 2010.

Hon. HARRY REID.

Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR REID: We write to express the Administration's strong support for the Native Hawaiian Government Reorganization Act of 2010 (S. 3945).

This legislation establishes a process for Native Hawaiians to organize a government roughly akin to the government of an American Indian tribe. Once the Native Hawaiian government is created and its leaders elected, the United States would officially recognize the new governing entity and work with it on a government-to-government basis, just as the United States works with federally recognized Indian tribes in other States.

Senator Akaka first introduced a version of this legislation more than a decade ago. Since 1999, Senator Akaka, Senator Inouye, and other members of Hawaii's congressional delegation have worked tirelessly with the last three Administrations—and especially with our Departments—to greatly improve the bill, which has now received bipartisan support from the House of Representatives, the Senate Committee on Indian Affairs, and Hawaii's Governor and Attorney General.

Of the Nation's there major indigenous groups, Native Hawaiians—unlike American Indians and Alaska Natives—are the only one that currently lacks a government-to-government relationship with the United States. This bill provides Native Hawaiians a means by which to exercise the inherent rights to local self-government, self-determination, and economic self-sufficiency that other Native Americans enjoy.

For these reasons, we urge the Senate to pass the Native Hawaiian Government Reorganization Act of 2010 and send it to the President for his signature.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the Administration's program.

Sincerely,

ERIC H. HOLDER, JR.,
Attorney General.

KEN SALAZAR,
Secretary of the Interior.

EXHIBIT 3

[From the Honolulu Advertiser, May 3, 2010]

66% OF HAWAII RESIDENTS FAVOR RECOGNITION FOR NATIVE HAWAIIANS—POLL SHOWS SLIGHT UPTICK FROM 2006, WHEN 63% APPROVED

(By Gordon Y.K. Pang)

Hawai'i residents still favor federal recognition of Native Hawaiians by a 2-to-1 margin, the latest Advertiser Hawai'i Poll numbers show.

Polling conducted last week found that 66 percent of the participants support Native Hawaiians being ''recognized by Congress and the federal government as a distinct group, similar to the special recognition given to American Indians and Alaskan Natives.''

Such recognition could come about under a process created by the Akaka bill, formally known as the Native Hawaiian Government Reorganization Act of 2009. The bill passed the U.S. House in February and is awaiting a vote in the Senate.

The Hawai'i Poll appears to indicate that, in recent years, a large segment of Hawai'i residents have settled into how they think about federal recognition and the Akaka bill. In 2000, the Advertiser Hawai'i Poll showed 73 percent in favor of federal recognition. That support appeared to dip in the latter part of the decade, when in 2006 the poll showed 63 percent of respondents in favor of recognition.

The poll was conducted by locally based Ward Research Inc. with a sampling size of 604 respondents.

Over the course of the last decade, during the administrations of President George W. Bush and President Obama, language in the Akaka bill has been widely debated and amended in the effort to get it passed.

Gov. Linda Lingle and her administration oppose the current version of the bill. Lingle had been a strong and influential supporter of the bill, but now believes this version grants too much authority to the Native Hawaiian entity at the onset of negotiations that would take place among the entity and the state and the federal governments.

For instance, it would grant ''sovereign immunity'' to the entity and its employees from the state's criminal, public health, child safety and environmental laws.

Clyde Nāmu'o, administrator of the Office of Hawaiian Affairs, said he is ''not surprised and actually pleased'' by the latest poll numbers, especially given the new opposition by Lingle and others.

''It's fairly consistent with the polls that we did,'' Nāmu'o said. ''Obviously, there's still a majority of the people who still support'' federal recognition.

Two of three major candidates in the 1st Congressional District special election, Democrat Ed Case and Republican Charles Djou, have said they do not support the current language of the bill that passed the House, leaving Democrat Colleen Hanabusa as the sole staunch supporter.

'NOBODY KNOWS'

Longtime opponents of the Akaka bill and/or federal recognition said the Hawai'i Poll numbers show only that a majority of Hawai'i residents don't know what federal recognition means.

''I think the big problem is nobody knows what's inside the bill,'' said Thurston Twigg-Smith, former Honolulu Advertiser owner. ''They keep changing it, people don't have a chance to read it.''

Congress should hold hearings on the measure in Hawai'i so the public can get a better understanding of the language, he said.

Hawaiian rights activist Dennis Pu'uhonua ''Bumpy'' Kanahele said the poll ''only tells me that people aren't even aware of what the Akaka bill is all about.''

The state's politicians and ''mainstream Hawaiian organizations'' support the bill and not other models of self-determination, such as complete independence from the U.S. government, he said.

Kanahele said that's why he's been pushing for a constitutional convention, so Hawaiians can look at the different models and determine what's best.

Among the 115 poll respondents who identified themselves as Native Hawaiians, 82 percent said they support federal recognition. Among other ethnic groups, 66 percent of those describing themselves as Japanese support it, while 61 percent of Filipinos and Caucasians indicated support.

Only 58 percent of those who identified themselves as 55 and older support federal recognition, while 72 percent of those ages 35 to 54 support it, and 79 percent of those under 35 do.

TRIBUTE TO RETIRING SENATORS

BYRON DORGAN

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise today to pay tribute to my colleague, Senator BYRON DORGAN. This is his last day voting in the Senate. He is retiring after serving the people of North Dakota in the Congress, the House, and Senate, for 30 years. But BYRON's record in North Dakota goes even beyond that—another 12 years in State office, so a total of 42 years of serving the people of North Dakota.

I want to first say I am not objective when it comes to BYRON DORGAN because he is my best friend. We have been friends and allies for all of those 42 years. In 1968 I was running a campaign to lower the voting age in North Dakota and first met BYRON DORGAN, a young tax commissioner—very young, in his twenties, appointed after the previous tax commissioner took his life. BYRON had extraordinary responsibility thrust on him at a very young age, the youngest statewide official in our State's history. BYRON disposed of those responsibilities with real distinction, becoming recognized as the most influential State leader, even more influential than the Governor of the State, by a major publication in North Dakota.

I met BYRON DORGAN in that year and was so struck by his ability, his charisma, and his vision for our State and our Nation that I thought: This is somebody I want to work with in my career.

We started a friendship that has lasted to this day. In 1970 I was helping run the reelection campaign of Senator Quentin Burdick, who served in this Chamber for more than 30 years. I got to know BYRON even better then. In fact, my wife and I spent time with him and his wife. In the years that followed we became very close friends. In 1974, when I got back from business school, BYRON called me and asked me to come to his office. I did the day after I returned home. We took a walk around the Capitol Grounds of the State of North Dakota and he talked to me about what he saw as the future—the future of our State, things that were happening in the country that needed to be addressed, and how the two of us might, working together, change that future and make a difference.

I agreed that day to be his campaign manager for the House of Representatives. In that campaign, EARL POMEROY, now North Dakota's lone Congressman, was the driver. I was the campaign manager. BYRON is always quick to point out it was the only election he ever lost. He always said it was the fault of the campaign manager. I always said it was the fault of the driver. And EARL always believed we would have won if only he had been the candidate.

Those were incredible days. I remember so well that campaign, the three of us—we bonded in a way that I think is very rare in politics and served together in a way that is unusual. There was never the kind of competition that often exists between Members. But there was always a keen friendship and a real partnership. We were allies, fighting for North Dakota, fighting to

change the country, deeply committed to each other and to our State.

After that campaign BYRON asked me to be his assistant. Weeks later he hired Lucy Calautti. Lucy, years later, became my wife, so I have always credited BYRON with bringing us together. We were also joined by my college roommate who became another assistant to then tax commissioner BYRON DORGAN, a young man named Jim Lang, a very dear friend of mine, an absolute genius, and the four of us worked to build the Democratic Party in North Dakota and to change the political landscape.

Those were incredible times. We fought great battles for a coal severance tax in North Dakota, for an oil severance tax, things that helped build the financial base for our State.

In 1980, BYRON announced that he would seek North Dakota's lone seat in the House of Representatives. I ran to succeed him as tax commissioner. Lucy, who by then was somebody for whom I had great respect, was his campaign manager in that race for the House of Representatives. BYRON was successful, and I was successful in a year in which no other Democrats were successful in our State.

We then had a period of time, 6 years, before the Senate race in which BYRON was in Washington, I was in North Dakota, and we campaigned together day after day, weekend after weekend, month after month, all across North Dakota, building a movement, a movement that resulted in my running for the Senate in 1986.

It was really BYRON's turn. He could have chosen to run, but he decided not to, and so I did, in a race that many thought was impossible for me to win. I started out more than 30 points behind the incumbent. He had over $1 million in the bank. When I got into the race, I think I had $126. But BYRON DORGAN was my ally in that race every step of the way. I think very few others would have done what he did for me. I think very few other Members of the House of Representatives, having someone else leapfrog them to come to the Senate, would have put themselves on the line as much as BYRON DORGAN did for me in that Senate race in 1986. But he was with me in every corner of the State fighting tooth and nail, an uphill battle in which, as I said, I started out 38 points behind.

But on election day, I won a very narrow victory, winning by about 2,000 votes over an incumbent who had won his previous race with over 70 percent of the vote and a man who really looked like a U.S. Senator, Mark Andrews—6 feet 5 inches, booming voice, white mane of hair, very powerful speaker. Yet I was able to win that race in a squeaker, and I never could have without BYRON's extraordinary assistance and support.

For a period of time that I was in the Senate, he was in the House, and then in 1992 I announced I would not seek reelection to my seat because I made a pledge in that 1986 campaign, and the pledge I made was that I would not run for reelection unless the deficit was dramatically reduced. If you have reviewed 1992, you know the deficit was at a record level. After the first Bush administration, deficits were at record levels. So I announced I would not seek reelection, in keeping with my pledge. BYRON DORGAN announced for my seat, and there was Lucy helping to run BYRON's campaign for what was my seat in the Senate—a remarkable time in our lives.

Then later that year, Senator Burdick, the other Senator from North Dakota, died. The Governor called me and said: KENT, you have to run to fill out the 2 years of his term; otherwise, North Dakota is going to lose all its seniority in one fell swoop, lose all of Senator Burdick's more than 30 years of seniority. We are going to lose BYRON'S 12 years of seniority in the House because he is running for your seat in the Senate, and we will lose your 6 years of seniority if you do not run to fill the term of Senator Burdick.

I have always remembered that the media in North Dakota took a poll on whether I should run to fill the 2 years of Senator Burdick's term, and even an overwhelming majority of Republicans thought I should run. So the Governor told me there would be a special election after the regular elections in November. He said: Look, you have kept your pledge. You did not run for reelection to your seat. BYRON is running for election to your seat. You would be in a special election in December.

So I agreed to run, and BYRON and I were running simultaneous campaigns for the Senate in 1992, he for my seat in the regular election, and I was running for the special election in December. Once again, we crisscrossed North Dakota campaigning together, making our case, and both of us won very big victories in 1992.

From that time period forward until today, BYRON and I have served together representing the State of North Dakota—best friends. What a remarkable story.

I can still remember one of the publications here on the Hill—I can't remember if it was The Hill or Roll Call—when the two Senators from Mississippi were fighting for the majority leader position, ran a cartoon that said: Why can't the two Senators from Mississippi be more like the Senators from North Dakota—friends forever. And BYRON and I have been friends forever and will be friends forever.

After the 1992 race, we both served North Dakota, and, unlike so many delegations, we did everything we could to support each other. I can't think of a time when there were ever angry words exchanged between BYRON DORGAN and EARL POMEROY and myself. It was what many people back home called Team North Dakota. And we have been a team, as close as you could be.

During BYRON'S time in the Senate, he has been a fierce fighter for policies that benefit average people and also somebody very suspicious of corporate power. He passionately opposed what he thought were misguided trade policies that contributed to jobs moving overseas. He was one of a handful of Senators who warned against consolidation and the excessive risk that would result from repealing the barriers between commercial and investment banking. He warned at the time, in what has become a famous speech, that if we passed that legislation, we would face a financial crisis in the years ahead. That prediction looks prescient today in light of the financial collapse of 2008. He was a leader in fighting for farm policies to benefit family farmers and ranch families rather than corporate agriculture. In the midst of it all, he wrote two books: take this job and shove it—or ''Take This Job and Ship It'' and ''Reckless! How Debt, Deregulation, and Dark Money Nearly Bankrupted America.''

Most importantly, BYRON DORGAN had a vision, an energy, and a persistence that has played a huge role in building the prosperity of our State.

Robert Kennedy once said: ''There are those that look at things the way they are, and ask why? I dream of things that never were, and ask why not?'' That is really the way BYRON approached service to North Dakota. He did not see limits; he saw opportunity.

He looked at our university system and technology industries and saw no reason they could not be built into the Red River Valley Research Corridor that could power the economy of eastern North Dakota. And he set about making it happen, and he has succeeded.

He looked at our energy industry and saw no reason North Dakota could not be the energy powerhouse for the Nation. Through his position on the Energy Committee and the Energy and Water Subcommittee of Appropriations, he helped build North Dakota into one of the leading energy-producing States in the Nation.

He looked at the growth of the knowledge industries and the Internet and saw no reason North Dakota could not be wired with the same 21st-century telecommunications infrastructure as the rest of the country. He used his position on the Commerce Committee to get that done as well.

The results of his work can be seen in every corner of our State. Modern highways and air terminals, new and improved water infrastructure, a booming energy and agricultural economy, high-tech companies springing up everywhere across our State, the strongest economic growth in the Nation, the lowest unemployment rate in the Nation—by any measure, North Dakota is doing very well. Most of that, BYRON will tell you, is because of the hard work and good judgment of the people of North Dakota. But among them, no one has worked harder or smarter on behalf of North Dakota than Senator BYRON DORGAN.

Let me close by saying that I do not know of a harder working or more productive person than BYRON DORGAN. He produces extraordinary amounts of high-quality work. He is type A squared, but he never forgot his roots.

BYRON DORGAN grew up in Regent, ND, a town of 300. He often reminds us that he graduated in a class of nine and he was in the top five. He is proud of that background, he is proud of that heritage, he is proud of our State, he is proud of our Nation, and we are proud of him.

I will miss BYRON DORGAN'S partnership here every day, but I know he will be with us because BYRON DORGAN will never be far from the fray. BYRON DORGAN has served this body well, served the Nation well, and served our State extraordinarily well.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from Colorado.

UNANIMOUS-CONSENT REQUEST—H.R. 2476

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 636, H.R. 2476; that the Udall of Colorado substitute amendment which is at the desk be agreed to; the bill, as amended, be read a third time and passed; the Udall of Colorado title amendment which is at the desk be agreed to; the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, on behalf of Senator KYL and Senator MCCAIN, I respectfully object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, if I might, I know Senator DURBIN has a pressing unanimous consent request. I ask unanimous consent that when he has concluded his request, Senator BARRASSO and I could engage in a colloquy on the very bill that has been objected to.

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

The Senator from Illinois.

UNANIMOUS-CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, the Executive Calendar of the Senate notes, on page 5, Calendar No. 1002, James Michael Cole, of the District of Columbia, nominated by the President of the United States to be Deputy Attorney General. That was reported by the Senate Judiciary Committee, his nomination, on July 20 of this year. We are now into December, and this year is coming to an end. This has taken long enough.

I ask that the No. 2 spot in the Department of Justice be filled, that we not continue to have this vacancy and imperil the important mission of that Department.

I ask unanimous consent that the Senate proceed to executive session and to the immediate consideration of Calendar No. 1002, James Michael Cole, of the District of Columbia, to be Deputy Attorney General; that the nomination be confirmed and the motion to reconsider be laid upon the table, with no interviewing action or debate; that any statements be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, the Department of Justice is well aware of some issues that have been raised by the intelligence community, particularly the Senate Intelligence Committee, with respect to this nominee; therefore, I must object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, if I might, I would like to yield to Senator BARRASSO from Wyoming to discuss the important bill that was just objected to.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. It was a privilege for me to cosponsor this piece of legislation with the distinguished Senator from Colorado. My colleague Senator ENZI and I have long been advocates of allowing an additional opportunity for jobs and for economic development into the wonderful ski areas around Rocky Mountain West, which is the intent of this bill. It really is aimed at increasing summer activities so that a number of these locations, if you will, on Forest Service land can use that land for an extended season, which would then work toward full-time, year-round employment for the folks in those areas, putting in things such as zip lines and opportunities for recreational advancements to increase the amount of tourism, the amount of visitors to these wonderful places people like to enjoy. We think additional opportunities and enhancements would allow for additional employment. That is why Senator ENZI and I joined with Senator UDALL in support of his efforts on this important piece of legislation.

Mr. UDALL of Colorado. Mr. President, I thank both Senators from Wyoming for their support. I know we will go back to work in the next Congress because, as the Senator pointed out, this bipartisan bill would provide clear authority for the Forest Service to allow additional summertime use of ski areas which would help create jobs and grow sustainable economies in ski country. It is no cost. It is common sense, as the Senator pointed out. That is why it not only has support from the two Wyoming Senators but also Senators RISCH, ENSIGN, BENNETT, and GREGG. It was favorably reported out of the Energy and Natural Resources Committee in September. The CBO projects it will actually generate revenue for the Federal budget and will help improve the economy in a lot of hard-hit mountain communities.

Mr. President, we passed a number of other bills out of the Energy and Natural Resources Committee that, unfortunately, will not receive votes in this Congress. I want to touch on a couple of them.

I begin with the National Forest Insect Disease Emergency Act. I have been working on this concern for the entire time I have served in the Congress, whether in the Senate or the House. We have an enormous bark beetle epidemic in our Western forests. Those who study our forests say that because of climate change and drought and human activity, these epidemics will become more and more common. What the bill would have done is provide the tools and resources to the Forest Service to help address this serious natural disaster. It is slow moving but nonetheless a natural disaster. That disaster is the deaths of millions and millions of acres of trees due to insect infestations.

Senators CRAPO and RISCH were cosponsors. It is a very significant disappointment that we didn't move to consider this bill. I know it would have passed the Senate.

Another bill is the Leadville Mine Drainage Tunnel Act, commonsense legislation that would directly benefit a community in Colorado and, indeed, the entire Arkansas River Valley, one of the significant watersheds in the State of Colorado. This mine drainage tunnel near Leadville, in 2008, was backed up with a large volume of contaminated water which then created a safety hazard to the community, but it was unclear whether the Bureau of Reclamation or the Environmental Protect Agency was responsible for addressing it.

My bill would clarify that the Bureau of Reclamation has the authority to treat this backed-up water and is responsible for maintaining the tunnel so that in the future these kinds of threats will not arise and, if they do, it is clear who is responsible to mitigate them. It is a straightforward bill. It doesn't cost anything. It would give the people of Leadville the certainty they have needed for years.

Finally, I wish to mention the Sugar Loaf Fire Protection District Land Exchange Act. This would help protect public safety. It facilitates a fair exchange of lands on the Arapaho-Roosevelt National Forest near Boulder between the Forest Service and the Sugar Loaf Fire District. The fire district is seeking this exchange so they can upgrade and maintain fire stations which serve this community which has been subjected to wildland/urban fires. We

want to protect the homes and the built structures and people who live in those areas. The exchange would reduce costs related to forest boundary maintenance as well as provide better service to the residents of the fire district, neighbors of the district, and individuals who travel through.

I appreciate the patience of my colleagues. The point I wish to make is, we had tens and tens of bills in the Energy and Natural Resources Committee that this body should have considered. It would have been important to give these commonsense bills an up-or-down vote. Almost all of them were bipartisan in nature. It is a disappointment to me that we have not done the will of the people in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

THANKING SENATE PAGES

Mr. DURBIN. Mr. President, I am sorry they are not on the floor at this moment, but I rise to give special recognition to two Senate pages who have stayed here while all the others have gone home for Christmas. These two pages have been working hard today to keep up with the Senate's very busy schedule:

Rachel Bailey, 16 years old, from Glendale, MD. Mom and dad are Susan and Karl. She is working late today as a Senate page. We thank Rachel so much.

Jarrod Nagurka, 16 years old, from Arlington, VA. His mom and dad are Pamela and Stuart.

Even though they aren't on the floor and they are running around here busy, they can look in the CONGRESSIONAL RECORD and realize that Senators of both political parties appreciate their dedication to this institution during this holiday season.

IN SUPPORT OF THE 9/11 HEALTH AND COMPENSATION ACT

Mr. DURBIN. Mr. President, 100 years ago today, there was a horrible fire in the stockyards of Chicago. Most of us have our vision of that era and the stockyards from Upton Sinclair's book ''The Jungle,'' which told of the life of a Lithuanian immigrant family working in the stockyards. It was one of the busiest commercial ventures in the United States, and it literally fed the Nation. But it also engaged in practices acceptable at that time which would be unacceptable by today's standards of health and safety.

That day of December 20, 1910, there was a fire. As a result of that fire, 100 years ago today, 21 firefighters lost their lives at the union stockyards in Chicago. Until the collapse of the World Trade Center towers on 9/11, no single disaster in the history of the United States had claimed the lives of more firefighters.

Sadly, today, in a cruel irony of history, there has been another fire in Chicago. This morning we lost two firefighters who went out in the bitter cold and did their best to fight a fire. A wall collapsed on them, as it did 100 years ago. Two lost their lives, and 14 were seriously injured. It is a sad reminder to all of us who drive by firehouses and fire stations all the time and see the men and women who work there, that when they are called to duty, they can give their lives at a moment's notice. It happened this morning in Chicago. It happened 100 years ago in the same city. It can happen again.

I am glad that earlier today we finally worked out an agreement on the so-called 9/11 Health Compensation Act, the James Zadroga 9/11 Health Compensation Act. The extraordinary efforts for passing that have to be recognized. I will, of course, acknowledge the two Senators from New York, KIRSTEN GILLIBRAND and CHARLES SCHUMER, who worked tirelessly to get it passed. They would acknowledge the contribution of our majority leader, HARRY REID, who stepped in and made this process work when it looked like it had failed several times. MIKE ENZI, on the Republican side, TOM COBURN from Oklahoma, all worked together and came up with a good bill. The 9/11 Health Compensation Act is going to help many around the United States. I just learned this week it can help one person in Chicago.

Arthur Noonan is 1 of the 188 responders and 86 survivors living in Illinois and enrolled in the World Trade Center health registry. I wish to thank the Chicago Sun Times for telling his story. He is a 30-year veteran of the Chicago Fire Department, spent hundreds of hours volunteering at Ground Zero in those critical days and weeks after the terrorist attack. Mr. Noonan, a firefighter from Chicago, worked in a line passing buckets of debris from Ground Zero, searching for human remains and clothing. He remembers the thick dust that coated everything and the sickly sweet smell. Noonan and other volunteers were given respirators, but the filters clogged up after a few minutes. They worked without masks after that. A few years after the cleanup, Mr. Noonan contracted leukemia. He applied for health benefits through the victims compensation fund and submitted medical documents to substantiate his claim, but his claim was filed 2 weeks too late.

Mr. Noonan said at first he was hesitant to file a claim because he ''never got anything for nothing.'' He says he has always worked two or three jobs. I talked to him on the phone just a couple days ago. What a classic Chicago story. Here is a man, a proud firefighter, now in retirement, battling leukemia successfully, who still says: I don't want anything for nothing.

I said: So what are you worried about?

Well, I am worried because I have a cap on my health insurance of 1 million bucks, and I have already spent $750,000 on my leukemia. I am worried I will just run out of health insurance.

That is a concern, a concern that can be addressed by this bill. If his leukemia can be tracked to his experience at Ground Zero, we certainly want to make certain he receives the medical care he needs.

Stanley Silata is another Chicago firefighter who applied for health assistance but was told his application was too late. He participated in search-and-rescue missions at Ground Zero and put out fires. Similar to so many other firefighters who were on the lines those days, Mr. Silata developed serious respiratory problems. He has had to have medical treatment since 2004. Mr. Silata's claim for assistance was submitted, unfortunately, 2 weeks after the deadline. We are hoping this bill will provide him some protection as well. The stories go on and on. But as we are reminded from the deaths in Chicago today, the firefighters who responded to this fire, the men and women who responded at Ground Zero, carried a servant's heart into one of the most dangerous places on Earth. They literally risked their lives in the hopes that they could save others or at least bring some compensation and some consolation to the families who had suffered these losses.

They deserve nothing less than our gratitude and our help, our help in enacting this 9/11 health compensation bill. I believe the House of Representatives will be considering this today. I hope it is signed very quickly by the President.

INTERCHANGE FEES

Mr. DURBIN. Mr. President, I wish to speak briefly about interchange fee reform, an issue I have worked on for many years and an issue which was taken up just recently last Thursday when the Federal Reserve considered legislation we passed in the Senate and House of Representatives and sent to them to establish regulations. It was an effort to bring reasonable regulation to a $20 billion annual debit card interchange fee system industry.

The Federal Reserve released draft regulations that will implement the new law Congress enacted. Back in May, when the Senate was debating the Wall Street reform bill, I offered an amendment. I am honored that 64 Senators voted for it, including 17 Republicans. It was a bipartisan success. It is now the law of the land. The Federal Reserve is moving forward to make sure our law is implemented in a fair way.

The Fed announced, according to their investigation, it costs the banks between 7 and 12 cents to process a debit card transaction. But the Fed reported that big banks and card networks charge merchants, retailers, charities, universities, and others an average debit interchange fee—not 7 to 12 cents—of 44 cents. The Fed has confirmed what consumers and retailers long suspected. They are being overcharged and gouged for each purchase

made with a debit card. Merchants and their customers are being charged more than three times what the transactions cost.

In the old days, if you paid by check before debit cards, the fee for processing the check was pennies, regardless of the face amount of the check. Now the debit card fee is 44 cents—three, four, five, six times more than the cost actually incurred by the banks because of the transaction.

The draft regulations released propose to cap the interchange fees at the largest banks at 12 cents per transaction, give or take some conditions such as the prevention of fraud, which we built into the law. With the 12-cent cap, we could save businesses and consumers across the United States about $10 billion in the first year. Imagine what $10 billion will mean to a restaurant, a shop. Think of what it means to universities and other charities that collect through the use of debit cards—more money for them to use, more profitability, and that could lead to more employment and better business outlooks.

At this point, I am hunkered down and ready for the fight that is coming. The biggest banks and credit card companies are going to do their best to influence the Federal Reserve to raise this interchange fee as high as possible, but we know what the reasonable costs are. We know these credit card companies and the big banks have been overcharging for years. Every time a credit or debit card sale is made, Visa and MasterCard take a cut of the transaction. Some of this cut they keep, but most of it is routed along to the bank that issued the card. This fee that goes to the card-issuing bank is the interchange fee, also known as a swipe fee. It skims an average of 1 to 3 percent off the top of every transaction. An estimated $48 billion in credit and debit card interchange fees were collected in 2008, around $20 billion from debit cards.

These fees come out of the pockets of everyone who accepts cards—merchants, small businesses, charities, and government agencies—and the costs are passed on to consumers.

Every bank says they need to charge fees to help pay for the cost of processing card transactions and fighting fraud. That is fair enough. But the banks do not set their own interchange fees. There is no competition here.

Some of my Republican colleagues, who supported my efforts said we did not want to go this far to give the Federal Reserve this authority. But there is literally no competition when it comes to credit and debit cards. That is why the government has to step in. That is why we think the Federal Reserve is moving in the right direction.

Go look at any bank's Web site and look to see how much that bank charges in interchange fees. You won't find anything.

Why? Because for years, the banks have enjoyed a cozy scheme where they let Visa and MasterCard fix the interchange fee rates that each bank receives.

This means banks do not have to compete with one another. They all receive the same fees no matter how much a particular bank actually spends to process transactions or to prevent fraud.

The current interchange system is a price-fixing scheme. Visa and MasterCard set the fee rates that thousands of banks receive. Efficient banks and inefficient banks receive exactly the same fees.

And Visa and MasterCard have so much market power over 75 percent of the market—that they can raise rates whenever they want to and tell merchants to take it or leave it.

Merchants have no choice but to take it, because now over half of all retail transactions take place with cards. They can't say no.

It is easy to see that the banks and card companies set up this interchange scheme. It benefits the banks that receive high fees and don't need to compete with each other or negotiate with merchants. And it benefits Visa and MasterCard, because they get their own network fee each time a card is swiped, and high interchange fees mean more banks will issue more cards.

But the system is unfair to merchants and to consumers in the United States. They have to pay billions per year in these fees with no negotiation and no competition.

The interchange amendment that I offered—and that is now law reins in these abusive fees.

My amendment did several things.

First, it said that if the big banks are going to let Visa and MasterCard fix fees on their behalf, the Federal Reserve should regulate those fees.

The amendment said that any debit interchange fee that is set by a card network and passed along to a big bank must be regulated by the Fed to ensure that the fee is reasonable and proportional to the actual cost of processing the transaction.

If a bank wants to charge its own fees to reflect the costs it bears, so be it. My amendment does not regulate that, and as long as those fees are transparent and competitive, I am fine with it.

But if the banks all get together and decide to let Visa and MasterCard fix fees for them, that is where my amendment steps in.

We know that banks today receive far more in interchange than it costs them to do debit transactions. They use their excess interchange subsidy to pay for things like ads, rewards programs, and CEO bonuses.

The result of my amendment is that we will squeeze the fat out of the interchange system. Banks will still be able to use interchange to pay for necessary processing costs, but they won't be able to use this interchange scheme to take excessive fees out of the pockets of merchants and their customers.

Second, my amendment said that if a bank takes steps to effectively reduce fraud in debit transactions, that bank can get an increase in their interchange rate.

So instead of the current system, where Visa and MasterCard give banks the same interchange rate no matter how much fraud the bank allows, my amendment will actually incentivize banks to reduce the amount of fraud that takes place. The rules that the Fed institutes on this will mark a major step forward.

Third, my amendment said that card networks cannot require that their debit cards all use exclusively one debit network.

The story here is that there are a number of debit networks that merchants can use to conduct transactions. Until recently, most cards could be used on multiple networks. You used to see a number of debit network logos on each debit card.

In recent years, however, the biggest networks like Visa have begun requiring banks to sign exclusive agreements under which they become the sole network on the banks' cards. This diminishes competition between networks and leads to higher prices. My amendment will restore this competition.

Finally, my amendment said that card networks can no longer penalize merchants who try to offer certain discounts to consumers, like discounts for using debit instead of credit. This was a clear pro-consumer provision.

I know that my amendment has been criticized by the banks and by some of their allies in Congress. Those criticisms have generally fallen along several lines.

Some have argued that my amendment is a problem because it involves price fixing.

I agree that price fixing is a problem, but it is the current interchange fee system that represents price fixing.

Don't take it from me even Visa admits that they fix prices for all their member banks under the current system. They sent a letter to the Fed on November 8 saying, quote, ''issuers do not in practice set interchange transaction fees; rather, these fees are set by networks,''

My amendment tries to correct price fixing, not create it.

Second, my amendment has been criticized because some think that it will not benefit consumers.

I absolutely agree that interchange reform should protect consumer interests. And I would note that my amendment was supported by a broad range of consumer groups and by millions of consumers who signed petitions in support of swipe fee reform.

Also, I note that the Fed met on October 13 with a number of consumer groups to discuss how to implement interchange reform.

The Fed has posted online summaries of all its interchange meetings, and according to that summary, the consumer groups said they preferred that

debit interchange fees be either de minimis or zero.

Consumers support interchange reform because, as a November 2009 GAO study points out, it is under the current interchange system that ''merchants pass on their increasing card acceptance costs to their customers.''

The National Retail Federation estimates that each American family pays an extra $427 per year as a result of inflated prices due to interchange fees.

Reining in soaring interchange fees reduces costs for merchants and consumers alike.

Now make no mistake—I expect the banks and card companies will try to get around debit interchange regulations by creating new hidden consumer fees and by steering consumers toward less-regulated products like prepaid cards. We saw the banks do this after the credit card reform bill was enacted last year.

But I want the banks and card companies to know that I will be watching, and I will make sure both the Congress and regulators step in as needed to prevent consumers from being fleeced.

Finally, my amendment has been criticized because some say it will hurt small banks and credit unions.

I have pointed out repeatedly that my amendment bends over backward to protect these small institutions. I don't want to drive them out of the debit card market, and my amendment won't do that.

Nothing in the amendment enables merchants to discriminate against cards issued by small banks and credit unions. Merchants are still required by Visa and MasterCard contracts to accept all cards regardless of the issuer.

And the amendment exempts banks with less than $10 billion in assets from interchange fee regulation. All but around 90 banks and 3 credit unions are exempt.

These small banks can continue to receive the same high interchange fees that they do today and they will actually receive higher fee rates than their big bank competitors.

If Visa and MasterCard are so protective of their big bank members that they decide to voluntarily cut the interchange rates that small banks receive, they will be doing so against their own profit motive—and they may be doing so in violation of the antitrust laws.

My amendment does not harm small banks and credit unions, and I will be watching to make sure Visa, MasterCard and the big banks do not harm them either.

Finally, I will point out that the United States is actually late to the party when it comes to interchange regulation.

According to an April 2008 report by the Federal Reserve Bank of Kansas City, banks have reached agreement with foreign governments to reduce interchange fees in countries such as Israel, Mexico, and Switzerland.

Just this week, the European Union reached an agreement with Visa Europe to limit debit interchange fees to 0.2 percent in nine countries and for cross-border EU transactions.

These countries are doing fine without excessive interchange fees. And the United States will do fine as well.

In conclusion, the Fed's release of proposed interchange rules is an important step toward bringing relief to our nation's merchants and consumers.

Now the Fed will commence a formal comment period on the draft rules, and I and many others will likely submit comments suggesting how the draft can be further improved.

I look forward to this process.

I again want to thank my 63 colleagues who stood up back in May and voted for my amendment to rein in the unfair debit interchange system. I look forward to continuing to work with them on this issue in the future.

I know this fight will be engaged again next year. I am looking forward to defending what we have done and to move with Senator MENENDEZ of New Jersey and others to deal with other abuses in the credit card industry, such as the prepaid debit card where there are vast overcharges of fees. We have to stand in this body for the consumers of America. They cannot afford the well-paid lobbyists in the hallways. We have to stand for them because those people are the backbone of our economy, and without our support, have limited voice in the decisionmaking that takes place in this Chamber.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak for up to 20 minutes in morning business.

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

ENERGY REFORM

Mr. WHITEHOUSE. Mr. President, we come to the end of this Congress having once again failed to harness the economic potential achievable through reform of our Nation's energy portfolio or to heed the dire warnings put forth by our planet about the effects of our relentless carbon pollution.

The results of our failure are many and are significant.

With our economy now at the forefront of our minds, you would think we would have paid more attention to the economic imperative of energy reform. As the global economic race to clean energy rushes by around us, you would think we would have exhibited more concern at the prospect of being left behind.

Instead, we remain engaged as a nation in a de facto policy of unilateral economic disarmament in the battle for command of tomorrow's energy economy. We are surrendering to China, to the European Union, to competitors around the world.

The United States invented the first solar cell, but we now rank fifth among countries that manufacture solar components. Other countries see the demand for clean energy, and they are moving their companies ahead of ours in the race to meet that demand. The United States is now home to only 1 of the top 10 companies manufacturing solar energy components and to only 1 of the top 10 companies manufacturing wind turbines.

Half of America's existing wind turbines were manufactured overseas. In Portsmouth, RI, we have installed two wind turbines. One was manufactured by a Danish company. The other was manufactured by an Austrian company, its components delivered to Rhode Island by a Canadian distributor.

Even in coal sequestration, in a country where half our power still comes from coal, we are not leading. Only one plant is under construction now with the capability to capture any significant portion of its carbon emissions.

The new energy economy that beckons us has been described in congressional testimony as bigger by far than the tech revolution that brought us our laptops and our iPads and our BlackBerries and the Internet services that are now so important a part of our daily lives. The tech economy is $1 trillion; the energy economy is $6 trillion.

In the race for commanding position in this new energy economy, America designed much of the underlying energy technology that the world is using, but other countries have put the propulsive effect of their government behind their industries, and they are pulling ahead of us in bringing those new technologies—our new technologies—to market. Our competitors are moving to seize an irretrievable advantage in the development and distribution of new energy technologies, and we are letting them.

Our children, I fear, will judge us sternly for failing to protect America's economic self-interest at this pivotal time. But they will judge us for that less sternly than they will judge us for our failure to protect their lands and waters, the air and climate they will inherit. For this, their verdict will be harsh.

Nature's warnings abound. Nature is giving us every signal of distress a prudent person could want or need to begin to take prudent precautions. Nature's voice is clear.

According to NASA, 2010 was the hottest climate year on record, surpassing 2005 as the previous record year.

The acidification of our oceans has reached levels not seen in 8,000 centuries—that is quite a bandwidth to fall out of.

September 2010 saw the lowest recorded Arctic ice volume, at 78 percent below the 1979 level. Researchers warn that the Arctic Sea could be ice free by 2030 and Glacier National Park without glaciers.

Western forests, as Senator UDALL just described, are falling by the mile to the ravages of spruce and mountain beetles, as warmer winters fail to kill off these pests.

A warming climate adds energy to our weather systems, loading the meteorological dice for worse and more frequent storms, and we are seeing worse and more frequent storms.

I am particularly alert to our Earth's alarm signals since I represent Rhode Island, the Ocean State. Rhode Island and other coastal States face a triple whammy.

First, we get the same terrestrial effects from climate change as all States: warming climates, changing habitats, and harsher and more frequent storms. Second, we will also suffer from changes affecting our ocean economies: species shifts as bays and oceans warm, lost fisheries, and the pervasive danger of ocean acidification. Rhode Island's productive winter flounder fishery, for instance, is already virtually gone. Third, we coastal States face the local consequences of rising sea levels: protecting coastal infrastructure, rezoning to compensate for new storm surge velocity zones, perhaps even diking and damming to protect low-lying areas from inundation.

We can foresee these consequences, and we can foresee the devastation they will bring.

Beyond our economic self-interest and beyond our responsibility as caretakers of the planet is the fact that climate change presents a threat to our national security.

Leaders of our defense and intelligence communities from both Republican and Democratic administrations and from the career military, outside of politics, have come forward to express their concern.

Respected leaders such as GEN Wesley Clark and former CIA Director James Woolsey have called for us to aggressively reduce our reliance on fossil fuels. In 2007, the nonprofit CNA Military Advisory Board gathered a dozen of the Nation's most respected retired admirals and generals, including former Chief of Staff of the Army GEN Gordon Sullivan and former commander-in-chief of U.S. Central Command GEN Anthony Zinni, to produce a report called ''National Security and the Threat of Climate Change.''

Its principal conclusion is that climate change poses a serious threat to national security by acting as a ''threat multiplier'' for instability in some of the world's most volatile regions and presents significant national security challenges for the United States.

As former ADM T. Joseph Lopez states in the report:

> More poverty, more forced migrations, higher unemployment. Those conditions are ripe for extremists and terrorists.

The official position of the U.S. Government is the same—not just at EPA, the Environmental Protection Agency, not just in the political elements of the administration. In 2008, the intelligence organizations within our national security structure prepared a national intelligence assessment on the national security implications of climate change.

Testifying before Congress on the report, chairman of the National Intelligence Council, Dr. Thomas Finger, said the impacts of climate change:

> . . . will worsen existing problems—such as poverty, social tensions, environmental degradation, ineffectual leadership, and weak political institutions. Climate change could threaten domestic stability in some states, potentially contributing to intra- or, less likely, interstate conflict, particularly over access to increasingly scarce water resources.

The Department of Defense Quadrennial Defense Review for 2010 concurred, declaring that climate change will play a ''significant role in shaping the future security environment.''

The review stated:

> While climate change alone does not cause conflict, it may act as an accelerant of instability or conflict, placing a burden to respond on civilian institutions and militaries around the world.

So here we have it, an enormous missed opportunity economically in a time of economic hardship, an unthinkable failure to safeguard the world our children will inherit, an accelerant of instability and conflict at a time when our security is threatened by both and still no action. How could we have ended up here again?

We have ended up here again because of a very unfortunate situation in our country right now.

I will confess, I am an American exceptionalist. Over and over, I have spoken on the floor about this country as a city on a hill, as a beacon in the darkness, as mankind's last, best hope, as leading the world by our example. These are trite comments perhaps, but I say them unashamedly. Our balanced system of government, our founding principles of ordered liberty, our embrace of our diversity, our willingness to fight and die for freedom in foreign lands and then come home, without conquest, with other nations' freedom our only prize, these are exceptional American virtues, and they have changed the course of humanity.

But our exceptional place in the human story does not give us an excuse. It does not give us a pass. It gives us, as Americans, a responsibility. Our American exceptionalism confers on Americans a responsibility. To ignore, as we have, the calm and constant counsels of science is not consistent with that responsibility. To ignore facts that are so plain as to be defacing our planet—her great glaciers and seas, her lands and species—is not consistent with that responsibility. To turn away from leadership at a time when other nations are turning to us for leadership is not consistent with that responsibility. It is not American exceptionalism to be exceptionally wrong or exceptionally blind or exceptionally timid.

James Fallows wrote in a recent Atlantic article about clean coal technology that:

> . . . the Chinese government can decide to transform the country's energy system in 10 years, and no one doubts that it will. An incoming U.S. Administration can promise to create a clean-energy revolution, but only naifs believe that it will.

Is this what the United States has come to, a country so mired in its internal quarrels and bickering, so slave to special interests that we cannot dream big, cannot do what others say is impossible?

An eminent historian once counseled his students about the harsh judgments which it is history's power to inflict on the wrong. We are, by our inaction, by our folly, by our unwillingness to face facts, by our refusal to pick up the mantle of leadership, earning such a harsh judgment. We have chosen to ignore the plain and indisputable signals of our planet, signals that should warn us about the dangers of the path on which we are embarked. We have chosen to ignore both the clear and present dangers apparent around us now and those looming dangers our God-given intelligence gives us the ability to foresee. We have instead chosen to listen to a siren song: the siren song of propaganda, marketed by special interests, indeed, by the very polluters whose carbon pollution is wreaking this damage. That is our choice, and it is a choice for which history's judgment will be justifiably harsh.

The judgment will be harsh because the answer to that choice is wrong—because the perils are real, because the Earth acts by the laws of physics and chemistry and biology. Atmospheric carbon levels cannot be talked down by propaganda; our warming bays and seas cannot be cooled down by corporate spin; our petty politics simply are not part of the equation when these great forces of nature are set in motion. Similar to King Canute, we cannot change this tide by proclamation, let alone by propaganda.

I see the majority leader on the floor. I wish to inquire if he would like me to yield for a moment to him as a courtesy.

Mr. REID. Has my friend completed his statement?

Mr. WHITEHOUSE. I have not.

Mr. REID. I say to the Senator, please complete your statement.

Mr. WHITEHOUSE. Thank you, Leader.

Some say we do not have to worry about the consequences that will come from what we see happening around us, that we do not have to attend to nature's warnings about the effects of what we are doing because God will get us out of the mess we are making. Perhaps, but history shows how often God's work is done through the work of human hands, through the gifts of the human mind, through the responsibility of the human conscience. In this, as in so many other things, God's work must be our own. The task for our hands is to address the facts science has long told us will bear on the problem: First and foremost, the rise in carbon pollution. We are now dumping 37 billion tons, or 37 gigatons, of CO a year into our atmosphere. Twenty

years ago, that number was less than 25 gigatons. Twenty years from now it might be over 50 gigatons.

We know what that means. Carbon dioxide persists in the environment for decades. We know that. So as we pile on the gigatons every year, it piles up in our atmosphere. We know that. The concentration of carbon dioxide in the atmosphere has fluctuated in a range between 180 and 280 parts per million over most of the last million years. In 1900, the CO_2 concentration had popped out of that range up to 300 parts per million, and today the concentration exceeds 390 parts per million and is climbing at about 2 parts per million every year. We know what that means too.

We have known since the Irish scientist, John Tyndall, figured it out in 1859—the year Oregon was admitted as the 33rd State, when James Buchanan was President, and when, ironically, the first U.S. oil well was drilled—that carbon dioxide traps heat in our atmosphere. It is basic textbook science.

Unfortunately, basic textbook science has encountered basic textbook politics and lost.

The oil-and-gas sector spent $250 million in lobbying expenses while we were working on a climate change bill between January 2009 and June 2010. The electric utilities kicked in another $264 million in lobbying expenditures. The mining industry topped it off with $29 million, for a grand total industry lobbying expense during this period of more than $½ billion—$543 million, to be exact.

So the judgment of history will be harsh not just because we were wrong, nor just because we were wrong in ways that we were able to understand were wrong. It will be harsh because we in this generation were entrusted with America's great democracy, as other generations before us have been entrusted with America's great democracy, and we will have failed that trust by failing in this challenge to meet the standards of a great democracy.

We fail that trust because this is no innocent mistake. This is not getting it wrong even though we tried our best. This is not even getting it wrong because we were lazy and not paying attention. This is no innocent mistake. This is the power of money in politics. This is the power of propaganda over truth. This is the deliberate poisoning of the public square with defective information, with manufactured doubt, with false choices, with a campaign of calculated deception. In the same ''Atlantic'' article I quoted earlier, James Fallows observed:

> Heads of the major coal-mining and electric-power utilities in United States and China accept as settled fact that greenhouse gas emissions are an emergency they must confront because of the likely disruptive effect on the world climate.

Even they get it but not us. We, the generation that lives today, the Congress that serves today, the public servants in office today can begin to turn the tide, and we must if we are to live up to our legacy as Americans and face up to the judgment of history. We can fight the propaganda. We can be servants of the truth. We can prevent manufactured doubt from ruling the day. But we haven't.

Losing another year in which we could have taken the action demanded of us by our economy, by our national security, by our planet was a mistake. Losing this great democracy to the inertia and cynicism of these political times would be a disaster.

But beyond the four walls of this Chamber, I believe there is reason to hope. Each day Americans are waking up to this challenge. Each day young people are joining together in their neighborhoods attempting small but significant local solutions to this large and imposing global problem. Each day our entrepreneurs seek new rays of opportunity in the clouds of dismay, finding ways to serve both their business instincts and their duty as citizens of the planet. Each day business leaders are looking at our inaction with growing regret and worry. And each day ordinary citizens from every walk of life are more and more, with clear eyes, seeing what we must face in the years ahead.

Many things influence our political institutions. Yes, money does; yes, partisanship does. But more than anything else, we are all servants. Each of us, given loud enough calls from our country, from our States, from our communities, will have no choice but to listen.

So even as I communicate to my colleagues my disappointment at this year's failure, I wish to challenge Americans to take into their own hands the job of creating next year's success. Call us. Write to us. Make us do this. You know we will be a stronger America if we do. You know we will be a safer America if we do. You know we will be a more respected America if we do. Make us do this.

Every American generation is given its chance to meet with honor, energy, and wisdom the great challenges of its day. Every American generation can rise to meet those challenges in a way that burnishes the gleam of our city on a hill, in a way that brightens the lamp America holds out in the darkness. That moment is upon us in this time and place, and we must rise to it.

I yield the floor, and I thank the majority leader for his courtesy.

The PRESIDING OFFICER. The majority leader.

PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE SECOND SESSION OF THE ONE HUNDRED ELEVENTH CONGRESS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to H. Con. Res. 336, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 336) providing for the sine die adjournment of the second session of the 111th Congress.

The PRESIDING OFFICER. The message is privileged.

Without objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask for a vote on this at this time.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 336) was agreed to, as follows:

H. CON. RES. 336

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Friday, December 17, 2010, through Friday, December 24, 2010, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns on any day from Sunday, December 19, 2010, through 11:59 a.m. on Monday, January 3, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

THANKING OUR SENATE PAGES

Mr. REID. I have a few brief words, so I would appreciate everyone's patience.

Through early mornings and late nights, weekdays and weekends, dedicated Senate pages often work as hard as do Senators and staffs. Their job is fast-paced. We ask a lot of these young men and women. They have significant responsibilities and much is expected of them. Sometimes, like this past week, those responsibilities and expectations are tremendous.

This past week has been one of those times. Thirty pages began working in September for this semester, and by now most of them have gone home to their families all across America—all but two of them, Rachel Bailey and Jarrod Nagurka. Rachel is from Maryland and Jarrod is from Virginia.

This past week has been very hectic. Through last weekend and during this week, historic legislation has been debated and passed right here on the Senate floor. The Senate floor cloakrooms have been extremely busy. Many amendments have been filed and called up. There has been an unusual situation where we have been in executive session with one of the rare treaties that are debated in this body. Senators have been heavily engaged trying to finish the work of the 111th Congress.

Without a single complaint, Rachel and Jarrod, these two pages, have been carrying the load of all 30 Democratic and Republican pages. These two fine young pages have worked both cloakrooms. They haven't had any days off and have regularly worked up to 13 to 14 hours each day. That is a lot for anyone, and it is certainly a lot for a 16-year-old who is a student besides.

The Senate greatly appreciates Rachel and Jarrod's commitment and calmness while the Senate's work has been so hectic. They have made our work much easier. They have been exceedingly professional, and I thank them.

I want every one of their family members to know that in the minds of the Senate, these are two legislative heroes.

SBIR/STTR REAUTHORIZATION ACT OF 2010

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4053, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 4053) to reauthorize and improve the SBIR and STTR programs, and for other purposes.

The ACTING PRESIDENT pro tempore. There being no objection, the Senate proceeded to consider the bill.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 4053) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4053

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 ''SBIR/STTR Reauthorization Act of 2010''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

Sec. 101. Extension of termination dates.
Sec. 102. Status of the Office of Technology.
Sec. 103. SBIR allocation increase.
Sec. 104. STTR allocation increase.
Sec. 105. SBIR and STTR award levels.
Sec. 106. Agency and program flexibility.
Sec. 107. Elimination of Phase II invitations.
Sec. 108. Participation by firms with substantial investment from multiple venture capital operating companies in a portion of the SBIR program.
Sec. 109. SBIR and STTR special acquisition preference.
Sec. 110. Collaborating with Federal laboratories and research and development centers.
Sec. 111. Notice requirement.
Sec. 112. Express authority for an agency to award sequential Phase II awards for SBIR or STTR funded projects.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

Sec. 201. Rural and State outreach.
Sec. 202. SBIR–STEM Workforce Development Grant Pilot Program.
Sec. 203. Technical assistance for awardees.
Sec. 204. Commercialization Readiness Program at Department of Defense.
Sec. 205. Commercialization Readiness Pilot Program for civilian agencies.
Sec. 206. Accelerating cures.
Sec. 207. Federal agency engagement with SBIR and STTR awardees that have been awarded multiple Phase I awards but have not been awarded Phase II awards.
Sec. 208. Clarifying the definition of ''Phase III''.
Sec. 209. Shortened period for final decisions on proposals and applications.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements.
Sec. 302. Data collection from agencies for SBIR.
Sec. 303. Data collection from agencies for STTR.
Sec. 304. Public database.
Sec. 305. Government database.
Sec. 306. Accuracy in funding base calculations.
Sec. 307. Continued evaluation by the National Academy of Sciences.
Sec. 308. Technology insertion reporting requirements.
Sec. 309. Intellectual property protections.
Sec. 310. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations.
Sec. 311. Pilot to allow funding for administrative, oversight, and contract processing costs.
Sec. 312. GAO study with respect to venture capital operating company involvement.
Sec. 313. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse.
Sec. 314. Interagency policy committee.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

TITLE V—OTHER PROVISIONS

Sec. 501. Research topics and program diversification.
Sec. 502. Report on SBIR and STTR program goals.
Sec. 503. Competitive selection procedures for SBIR and STTR programs.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms ''extramural budget'', ''Federal agency'', ''Small Business Innovation Research Program'', ''SBIR'', ''Small Business Technology Transfer Program'', and ''STTR'' have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended—

(1) by striking ''TERMINATION.—'' and all that follows through ''the authorization'' and inserting ''TERMINATION.—The authorization'';

(2) by striking ''2008'' and inserting ''2018''; and

(3) by striking paragraph (2).

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended—

(1) by striking ''IN GENERAL.—'' and all that follows through ''with respect'' and inserting ''IN GENERAL.—With respect'';

(2) by striking ''2009'' and inserting ''2018''; and

(3) by striking clause (ii).

SEC. 102. STATUS OF THE OFFICE OF TECHNOLOGY.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and'';

(3) by redesignating paragraph (8) as paragraph (9); and

(4) by adding at the end the following:

''(10) to maintain an Office of Technology to carry out the responsibilities of the Administration under this section, which shall be—

''(A) headed by the Assistant Administrator for Technology, who shall report directly to the Administrator; and

''(B) independent from the Office of Government Contracting of the Administration and sufficiently staffed and funded to comply with the oversight, reporting, and public database responsibilities assigned to the Office of Technology by the Administrator.''.

SEC. 103. SBIR ALLOCATION INCREASE.

Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''Each'' and inserting ''Except as provided in paragraph (2)(B), each'';

(B) in subparagraph (B), by striking ''and'' at the end; and

(C) by striking subparagraph (C) and inserting the following:

''(C) not less than 2.5 percent of such budget in fiscal year 2011;

''(D) not less than 2.6 percent of such budget in fiscal year 2012;

''(E) not less than 2.7 percent of such budget in fiscal year 2013;

''(F) not less than 2.8 percent of such budget in fiscal year 2014;

''(G) not less than 2.9 percent of such budget in fiscal year 2015;

''(H) not less than 3.0 percent of such budget in fiscal year 2016;

''(I) not less than 3.1 percent of such budget in fiscal year 2017;

''(J) not less than 3.2 percent of such budget in fiscal year 2018;

''(K) not less than 3.3 percent of such budget in fiscal year 2019;

''(L) not less than 3.4 percent of such budget in fiscal year 2020; and

''(M) not less than 3.5 percent of such budget in fiscal year 2021 and each fiscal year thereafter,''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(B) by striking ''A Federal agency'' and inserting the following:

''(A) IN GENERAL.—A Federal agency''; and

(C) by adding at the end the following:

''(B) DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.—For the Department of Defense and the Department of Energy, to the greatest extent practicable, the percentage of the extramural budget in excess of 2.5 percent required to be expended with small business concerns under subparagraphs (D) through (M) of paragraph (1)—

''(i) may not be used for new Phase I or Phase II awards; and

''(ii) shall be used for activities that further the readiness levels of technologies developed under Phase II awards, including conducting testing and evaluation to promote the transition of such technologies into commercial or defense products, or systems furthering the mission needs of the Department of Defense or the Department of Energy, as the case may be.''.

SEC. 104. STTR ALLOCATION INCREASE.

Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking ''thereafter.'' and inserting ''through fiscal year 2011;''; and

(3) by adding at the end the following:

''(iii) 0.4 percent for fiscal years 2012 and 2013;

''(iv) 0.5 percent for fiscal years 2014 and 2015; and

''(v) 0.6 percent for fiscal year 2016 and each fiscal year thereafter.''.

SEC. 105. SBIR AND STTR AWARD LEVELS.

(a) SBIR ADJUSTMENTS.—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

(1) by striking ''$100,000'' and inserting ''$150,000''; and

(2) by striking ''$750,000'' and inserting ''$1,000,000''.

(b) STTR ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking ''$100,000'' and inserting ''$150,000''; and

(2) by striking ''$750,000'' and inserting ''$1,000,000''.

(c) ANNUAL ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D), by striking ''once every 5 years to reflect economic adjustments and programmatic considerations'' and inserting ''every year for inflation''; and

(2) in subsection (p)(2)(B)(ix) by inserting ''(each of which the Administrator shall adjust for inflation annually)'' after ''$750,000,''.

(d) LIMITATION ON SIZE OF AWARDS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(aa) LIMITATION ON SIZE OF AWARDS.—

''(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

''(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

''(A) the amount of each award;

''(B) a justification for exceeding the award amount;

''(C) the identity and location of each award recipient; and

''(D) whether an award recipient has received any venture capital investment and, if so, whether the recipient is majority-owned and controlled by multiple venture capital operating companies.

''(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.''.

SEC. 106. AGENCY AND PROGRAM FLEXIBILITY.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(bb) SUBSEQUENT PHASE II AWARDS.—

''(1) AGENCY FLEXIBILITY.—A small business concern that received an award from a Federal agency under this section shall be eligible to receive a subsequent Phase II award from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

''(2) SBIR AND STTR PROGRAM FLEXIBILITY.—A small business concern that received an award under this section under the SBIR program or the STTR program may receive a subsequent Phase II award in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).

''(3) PREVENTING DUPLICATIVE AWARDS.—Before making an award under paragraph (1) or (2), the head of a Federal agency shall verify that the project to be performed with the award has not been funded under the SBIR program or STTR program of another Federal agency.''.

SEC. 107. ELIMINATION OF PHASE II INVITATIONS.

(a) IN GENERAL.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(B), by striking ''to further'' and inserting: ''which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further''; and

(2) in paragraph (6)(B), by striking ''to further develop proposed ideas to'' and inserting ''which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further develop proposals that''.

SEC. 108. PARTICIPATION BY FIRMS WITH SUBSTANTIAL INVESTMENT FROM MULTIPLE VENTURE CAPITAL OPERATING COMPANIES IN A PORTION OF THE SBIR PROGRAM.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(cc) PARTICIPATION OF SMALL BUSINESS CONCERNS MAJORITY-OWNED BY VENTURE CAPITAL OPERATING COMPANIES IN THE SBIR PROGRAM.—

''(1) AUTHORITY.—Upon a written determination described in paragraph (2) provided to the Administrator and to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives not later than 30 days before the date on which an award is made—

''(A) the Director of the National Institutes of Health, the Secretary of Energy, and the Director of the National Science Foundation may award not more than 25 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies through competitive, merit-based procedures that are open to all eligible small business concerns; and

''(B) the head of a Federal agency other than a Federal agency described in subparagraph (A) that participates in the SBIR program may award not more than 15 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies through competitive, merit-based procedures that are open to all eligible small business concerns.

''(2) DETERMINATION.—A written determination described in this paragraph is a written determination by the head of a Federal agency that explains how the use of the authority under paragraph (1) will—

''(A) induce additional venture capital funding of small business innovations;

''(B) substantially contribute to the mission of the Federal agency;

''(C) demonstrate a need for public research; and

''(D) otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

''(3) REGISTRATION.—A small business concern that is majority-owned by multiple venture capital operating companies and qualified for participation in the program authorized under paragraph (1) shall—

''(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

''(B) indicate in any SBIR proposal that the small business concern is registered under subparagraph (A) as majority-owned by multiple venture capital operating companies.

''(4) COMPLIANCE.—

''(A) IN GENERAL.—The head of a Federal agency that makes an award under this subsection during a fiscal year shall collect and submit to the Administrator data relating to the number and dollar amount of Phase I awards, Phase II awards, and any other category of awards by the Federal agency under the SBIR program during that fiscal year.

''(B) ANNUAL REPORTING.—The Administrator shall include as part of each annual report by the Administration under subsection (b)(7) any data submitted under subparagraph (A) and a discussion of the compliance of each Federal agency that makes an award under this subsection during the fiscal year with the maximum percentages under paragraph (1).

''(5) ENFORCEMENT.—If a Federal agency awards more than the percent of the funds allocated for the SBIR program of the Federal agency authorized under paragraph (1) for a purpose described in paragraph (1), the head of the Federal agency shall transfer an amount equal to the amount awarded in excess of the amount authorized under paragraph (1) to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency not later than 180 days after the date on which the Federal agency made the award that caused the total awarded under paragraph (1) to be more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).

''(6) EVALUATION CRITERIA.—A Federal agency may not use investment of venture capital as a criterion for the award of contracts under the SBIR program or STTR program.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(aa) VENTURE CAPITAL OPERATING COMPANY.—In this Act, the term 'venture capital operating company' means an entity described in clause (i), (v), or (vi) of section

121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).''.

(c) RULEMAKING TO ENSURE THAT FIRMS THAT ARE MAJORITY-OWNED BY MULTIPLE VENTURE CAPITAL OPERATING COMPANIES ARE ABLE TO PARTICIPATE IN A PORTION OF THE SBIR PROGRAM.—

(1) STATEMENT OF CONGRESSIONAL INTENT.—It is the stated intent of Congress that the Administrator should promulgate regulations to carry out the authority under section 9(cc) of the Small Business Act, as added by this section, that—

(A) permit small business concerns that are majority-owned by multiple venture capital operating companies to participate in the SBIR program in accordance with section 9(cc) of the Small Business Act;

(B) provide specific guidance for small business concerns that are majority-owned by multiple venture capital operating companies with regard to eligibility, participation, and affiliation rules; and

(C) preserve and maintain the integrity of the SBIR program as a program for small business concerns in the United States, prohibiting large businesses or large entities or foreign-owned businesses or entities from participation in the program established under section 9 of the Small Business Act.

(2) RULEMAKING REQUIRED.—

(A) PROPOSED REGULATIONS.—Not later than April 30, 2011, the Administrator shall issue proposed regulations to amend section 121.103 (relating to determinations of affiliation applicable to the SBIR program) and section 121.702 (relating to ownership and control standards and size standards applicable to the SBIR program) of title 13, Code of Federal Regulations, for firms that are majority-owned by multiple venture capital operating companies and participating in the SBIR program solely under the authority under section 9(cc) of the Small Business Act, as added by this section.

(B) FINAL REGULATIONS.—Not later than December 31, 2011, and after providing notice of and opportunity for comment on the proposed regulations issued under subparagraph (A), the Administrator shall issue final or interim final regulations under this subsection.

(3) CONTENTS.—

(A) IN GENERAL.—The regulations issued under this subsection shall permit the participation of applicants majority-owned by multiple venture capital operating companies in the SBIR program in accordance with section 9(cc) of the Small Business Act, as added by this section, unless the Administrator determines—

(i) in accordance with the size standards established under subparagraph (B), that the applicant is—

(I) a large business or large entity; or

(II) majority-owned or controlled by a large business or large entity; or

(ii) in accordance with the criteria established under subparagraph (C), that the applicant—

(I) is a foreign business or a foreign entity or is not a citizen of the United States or alien lawfully admitted for permanent residence; or

(II) is majority-owned or controlled by a foreign business, foreign entity, or person who is not a citizen of the United States or alien lawfully admitted for permanent residence.

(B) SIZE STANDARDS.—Under the authority to establish size standards under paragraphs (2) and (3) of section 3(a) of the Small Business Act (15 U.S.C. 632(a)), the Administrator shall, in accordance with paragraph (1) of this subsection, establish size standards for applicants seeking to participate in the SBIR program solely under the authority under section 9(cc) of the Small Business Act, as added by this section.

(C) CRITERIA FOR DETERMINING FOREIGN OWNERSHIP.—The Administrator shall establish criteria for determining whether an applicant meets the requirements under subparagraph (A)(ii), and, in establishing the criteria, shall consider whether the criteria should include—

(i) whether the applicant is at least 51 percent owned or controlled by citizens of the United States or domestic venture capital operating companies;

(ii) whether the applicant is domiciled in the United States; and

(iii) whether the applicant is a direct or indirect subsidiary of a foreign-owned firm, including whether the criteria should include that an applicant is a direct or indirect subsidiary of a foreign-owned entity if—

(I) any venture capital operating company that owns more than 20 percent of the applicant is a direct or indirect subsidiary of a foreign-owned entity; or

(II) in the aggregate, entities that are direct or indirect subsidiaries of foreign-owned entities own more than 49 percent of the applicant.

(D) CRITERIA FOR DETERMINING AFFILIATION.—The Administrator shall establish criteria, in accordance with paragraph (1), for determining whether an applicant is affiliated with a venture capital operating company or any other business that the venture capital operating company has financed and, in establishing the criteria, shall specify that—

(i) if a venture capital operating company that is determined to be affiliated with an applicant is a minority investor in the applicant, the portfolio companies of the venture capital operating company shall not be determined to be affiliated with the applicant, unless—

(I) the venture capital operating company owns a majority of the portfolio company; or

(II) the venture capital operating company holds a majority of the seats on the board of directors of the portfolio company;

(ii) subject to clause (i), the Administrator retains the authority to determine whether a venture capital operating company is affiliated with an applicant, including establishing other criteria;

(iii) the Administrator may not determine that a portfolio company of a venture capital operating company is affiliated with an applicant based solely on one or more shared investors; and

(iv) subject to clauses (i), (ii), and (iii), the Administrator retains the authority to determine whether a portfolio company of a venture capital operating company is affiliated with an applicant based on factors independent of whether there is a shared investor, such as whether there are contractual obligations between the portfolio company and the applicant.

(4) ENFORCEMENT.—If the Administrator does not issue final or interim final regulations under this subsection on or before December 31, 2011, the Administrator may not carry out any activities under section 4(h) of the Small Business Act (15 U.S.C. 633(h)) (as continued in effect pursuant to the Act entitled ''An Act to extend temporarily certain authorities of the Small Business Administration'', approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742)) during the period beginning on the day after December 31, 2011, and ending on the date on which the final or interim final regulations are issued.

(5) DEFINITION.—In this subsection, the term ''venture capital operating company'' has the same meaning as in section 3(aa) of the Small Business Act, as added by this section.

(d) ASSISTANCE FOR DETERMINING AFFILIATES.—

(1) CLEAR EXPLANATION REQUIRED.—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the website of the Administration (with a direct link displayed on the homepage of the website of the Administration or the SBIR and STTR websites of the Administration)—

(A) a clear explanation of the SBIR and STTR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(B) contact information for officers or employees of the Administration who—

(i) upon request, shall review an issue relating to the rules described in subparagraph (A); and

(ii) shall respond to a request under clause (i) not later than 20 business days after the date on which the request is received.

(2) INCLUSION OF AFFILIATION RULES FOR CERTAIN SMALL BUSINESS CONCERNS.—On and after the date on which the final regulations under subsection (c) are issued, the Administrator shall post on the website of the Administration information relating to the regulations, in accordance with paragraph (1).

SEC. 109. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended by adding at the end the following:

''(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.''.

SEC. 110. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(dd) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

''(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

''(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

''(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

''(2) PROHIBITION.—No Federal agency shall—

''(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

''(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

''(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

''(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the

SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

''(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

''(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.''.

SEC. 111. NOTICE REQUIREMENT.

(a) SBIR PROGRAM.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(12) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program of the Federal agency; and''.

(b) STTR PROGRAM.—Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (15);

(2) in paragraph (16), by striking the period at the end and inserting ''; and'';

(3) by redesignating paragraph (16) as paragraph (15); and

(4) by adding at the end the following:

''(16) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the STTR program of the Federal agency.''.

SEC. 112. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD SEQUENTIAL PHASE II AWARDS FOR SBIR OR STTR FUNDED PROJECTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ee) ADDITIONAL PHASE II SBIR AND STTR AWARDS.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible to receive an additional Phase II SBIR award or Phase II STTR award for that project.''.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. RURAL AND STATE OUTREACH.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

''(s) FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM.—

''(1) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) APPLICANT.—The term 'applicant' means an entity, organization, or individual that submits a proposal for an award or a cooperative agreement under this subsection.

''(B) FAST PROGRAM.—The term 'FAST program' means the Federal and State Technology Partnership Program established under this subsection.

''(C) RECIPIENT.—The term 'recipient' means a person that receives an award or becomes party to a cooperative agreement under this subsection.

''(D) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

''(E) DEFINITIONS RELATING TO MENTORING NETWORKS.—The terms 'business advice and counseling', 'mentor', and 'mentoring network' have the meanings given those terms in section 34(e).

''(2) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to be known as the Federal and State Technology Partnership Program, the purpose of which shall be to strengthen the technological competitiveness of small business concerns in the States.

''(3) GRANTS AND COOPERATIVE AGREEMENTS.—

''(A) JOINT REVIEW.—In carrying out the FAST program, the Administrator and the program managers for the SBIR program and STTR program at the National Science Foundation, the Department of Defense, and any other Federal agency determined appropriate by the Administrator shall jointly review proposals submitted by applicants and may make awards or enter into cooperative agreements under this subsection based on the factors for consideration set forth in subparagraph (B), in order to enhance or develop in a State—

''(i) technology research and development by small business concerns;

''(ii) technology transfer from university research to technology-based small business concerns;

''(iii) technology deployment and diffusion benefitting small business concerns;

''(iv) the technological capabilities of small business concerns through the establishment or operation of consortia comprised of entities, organizations, or individuals, including—

''(I) State and local development agencies and entities;

''(II) representatives of technology-based small business concerns;

''(III) industries and emerging companies;

''(IV) universities; and

''(V) small business development centers; and

''(v) outreach, financial support, and technical assistance to technology-based small business concerns participating in or interested in participating in an SBIR program or STTR program, including initiatives—

''(I) to make grants or loans to companies to pay a portion or all of the cost of developing SBIR or STTR proposals;

''(II) to establish or operate a Mentoring Network within the FAST program to provide business advice and counseling that will assist small business concerns that have been identified by FAST program participants, program managers of participating SBIR agencies, the Administration, or other entities that are knowledgeable about the SBIR and STTR programs as good candidates for the SBIR and STTR programs, and that would benefit from mentoring, in accordance with section 34;

''(III) to create or participate in a training program for individuals providing SBIR or STTR outreach and assistance at the State and local levels; and

''(IV) to encourage the commercialization of technology developed through funding under the SBIR program or the STTR program.

''(B) SELECTION CONSIDERATIONS.—In making awards or entering into cooperative agreements under this subsection, the Administrator and the program managers referred to in subparagraph (A)—

''(i) may only consider proposals by applicants that intend to use a portion of the Federal assistance provided under this subsection to provide outreach, financial support, or technical assistance to technology-based small business concerns participating in or interested in participating in the SBIR program or STTR program; and

''(ii) shall consider, at a minimum—

''(I) whether the applicant has demonstrated that the assistance to be provided would address unmet needs of small business concerns in the community, and whether it is important to use Federal funding for the proposed activities;

''(II) whether the applicant has demonstrated that a need exists to increase the number or success of small high-technology businesses in the State or an area of the State, as measured by the number of Phase I and Phase II SBIR awards that have historically been received by small business concerns in the State or area of the State;

''(III) whether the projected costs of the proposed activities are reasonable;

''(IV) whether the proposal integrates and coordinates the proposed activities with other State and local programs assisting small high-technology firms in the State;

''(V) the manner in which the applicant will measure the results of the activities to be conducted; and

''(VI) whether the proposal addresses the needs of small business concerns—

''(aa) owned and controlled by women;

''(bb) that are socially and economically disadvantaged small business concerns (as defined in section 8(a)(4)(A));

''(cc) that are HUBZone small business concerns;

''(dd) located in areas that have historically not participated in the SBIR and STTR programs;

''(ee) owned and controlled by service-disabled veterans;

''(ff) owned and controlled by Native Americans; and

''(gg) located in geographic areas with an unemployment rate that exceeds the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.

''(C) PROPOSAL LIMIT.—Not more than 1 proposal may be submitted for inclusion in the FAST program under this subsection to provide services in any one State in any 1 fiscal year.

''(D) PROCESS.—Proposals and applications for assistance under this subsection shall be in such form and subject to such procedures as the Administrator shall establish. The Administrator shall promulgate regulations establishing standards for the consideration of proposals under subparagraph (B), including standards regarding each of the considerations identified in subparagraph (B)(ii).

''(4) COOPERATION AND COORDINATION.—In carrying out the FAST program, the Administrator shall cooperate and coordinate with—

''(A) Federal agencies required by this section to have an SBIR program; and

''(B) entities, organizations, and individuals actively engaged in enhancing or developing the technological capabilities of small business concerns, including—

''(i) State and local development agencies and entities;

''(ii) State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation (as established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g));

''(iii) State science and technology councils; and

''(iv) representatives of technology-based small business concerns.

''(5) ADMINISTRATIVE REQUIREMENTS.—

''(A) COMPETITIVE BASIS.—Awards and cooperative agreements under this subsection shall be made or entered into, as applicable, on a competitive basis.

''(B) MATCHING REQUIREMENTS.—

''(i) IN GENERAL.—The non-Federal share of the cost of an activity (other than a planning activity) carried out using an award or under a cooperative agreement under this subsection shall be—

''(I) except as provided in clause (iii), 35 cents for each Federal dollar, in the case of

a recipient that will serve small business concerns located in 1 of the 18 States receiving the fewest Phase I SBIR awards;

''(II) except as provided in clause (ii) or (iii), 1 dollar for each Federal dollar, in the case of a recipient that will serve small business concerns located in 1 of the 16 States receiving the greatest number of Phase I SBIR awards; and

''(III) except as provided in clause (ii) or (iii), 50 cents for each Federal dollar, in the case of a recipient that will serve small business concerns located in a State that is not described in subclause (I) or (II) that is receiving Phase I SBIR awards.

''(ii) LOW-INCOME AREAS.—The non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in a qualified census tract, as that term is defined in section 42(d)(5)(B)(ii)(I) of the Internal Revenue Code of 1986. Federal dollars not so allocated by that recipient shall be subject to the matching requirements of clause (i).

''(iii) RURAL AREAS.—

''(I) IN GENERAL.—Except as provided in subclause (II), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in a rural area.

''(II) ENHANCED RURAL AWARDS.—For a recipient located in a rural area that is located in a State described in clause (i)(I), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 15 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in the rural area.

''(III) DEFINITION OF RURAL AREA.—In this clause, the term 'rural area' has the meaning given that term in section 1393(a)(2) of the Internal Revenue Code of 1986.

''(iv) TYPES OF FUNDING.—The non-Federal share of the cost of an activity carried out by a recipient shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

''(v) RANKINGS.—For the first full fiscal year after the date of enactment of the SBIR/STTR Reauthorization Act of 2010, and each fiscal year thereafter, based on the statistics for the most recent full fiscal year for which the Administrator has compiled statistics, the Administrator shall reevaluate the ranking of each State for purposes of clause (i).

''(C) DURATION.—Awards may be made or cooperative agreements entered into under this subsection for multiple years, not to exceed 5 years in total.

''(6) ANNUAL REPORTS.—The Administrator shall submit an annual report to the Committee on Small Business of the Senate and the Committee on Science and the Committee on Small Business of the House of Representatives regarding—

''(A) the number and amount of awards provided and cooperative agreements entered into under the FAST program during the preceding year;

''(B) a list of recipients under this subsection, including their location and the activities being performed with the awards made or under the cooperative agreements entered into; and

''(C) the Mentoring Networks and the mentoring database, as provided for under section 34, including—

''(i) the status of the inclusion of mentoring information in the database required by subsection (k); and

''(ii) the status of the implementation and description of the usage of the Mentoring Networks.

''(7) PROGRAM LEVELS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out the FAST program, including Mentoring Networks, under this subsection and section 34, $15,000,000 for each of fiscal years 2010 through 2014.

''(B) MENTORING DATABASE.—Of the total amount made available under subparagraph (A) for fiscal years 2010 through 2014, a reasonable amount, not to exceed a total of $500,000, may be used by the Administration to carry out section 34(d).

''(8) TERMINATION.—The authority to carry out the FAST program under this subsection shall terminate on September 30, 2014.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by striking section 34 (15 U.S.C. 657d);

(2) by redesignating sections 35 through 43 as sections 34 through 42, respectively;

(3) in section 9(k)(1)(D) (15 U.S.C. 638(k)(1)(D)), by striking ''section 35(d)'' and inserting ''section 34(d)'';

(4) in section 34 (15 U.S.C. 657e), as so redesignated—

(A) in subsection (c)(1), by striking ''section 34(c)(1)(E)(ii)'' and inserting ''section 9(s)(3)(A)(v)(II)'';

(B) by striking ''section 34'' each place it appears and inserting ''section 9(s)''; and

(C) by adding at the end the following:

''(e) DEFINITIONS.—In this section, the following definitions apply:

''(1) BUSINESS ADVICE AND COUNSELING.—The term 'business advice and counseling' means providing advice and assistance on matters described in subsection (c)(2)(B) to small business concerns to guide them through the SBIR and STTR program process, from application to award and successful completion of each phase of the program.

''(2) FAST PROGRAM.—The term 'FAST program' means the Federal and State Technology Partnership Program established under section 9(s).

''(3) MENTOR.—The term 'mentor' means an individual described in subsection (c)(2).

''(4) MENTORING NETWORK.—The term 'Mentoring Network' means an association, organization, coalition, or other entity (including an individual) that meets the requirements of subsection (c).

''(5) RECIPIENT.—The term 'recipient' means a person that receives an award or becomes party to a cooperative agreement under this section.

''(6) SBIR PROGRAM.—The term 'SBIR program' has the same meaning as in section 9(e)(4).

''(7) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

''(8) STTR PROGRAM.—The term 'STTR program' has the same meaning as in section 9(e)(6).'';

(5) in section 36(d) (15 U.S.C. 657i(d)), as so redesignated, by striking ''section 43'' and inserting ''section 42'';

(6) in section 39(d) (15 U.S.C. 657l(d)), as so redesignated, by striking ''section 43'' and inserting ''section 42''; and

(7) in section 40(b) (15 U.S.C. 657m(b)), as so redesignated, by striking ''section 43'' and inserting ''section 42''.

SEC. 202. SBIR–STEM WORKFORCE DEVELOPMENT GRANT PILOT PROGRAM.

(a) PILOT PROGRAM ESTABLISHED.—From amounts made available to carry out this section, the Administrator shall establish a SBIR–STEM Workforce Development Grant Pilot Program to encourage the business community to provide workforce development opportunities for college students, in the fields of science, technology, engineering, and math (in this section referred to as ''STEM college students''), particularly those that are socially and economically disadvantaged individuals, from rural areas, or from areas with high unemployment, as determined by the Administrator, by providing a SBIR bonus grant.

(b) ELIGIBLE ENTITIES DEFINED.—In this section the term ''eligible entity'' means a grantee receiving a grant under the SBIR Program on the date of the bonus grant under subsection (a) that provides an internship program for STEM college students.

(c) AWARDS.—An eligible entity shall receive a bonus grant equal to 10 percent of either a Phase I or Phase II grant, as applicable, with a total award maximum of not more than $10,000 per year.

(d) EVALUATION.—Following the fourth year of funding under this section, the Administrator shall submit to Congress as part of the report under section 9(b)(7) of the Small Business Act (15 U.S.C. 638(b)(7)) the results of the SBIR–STEM Workforce Development Grant Pilot Program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000 for fiscal year 2011;

(2) $1,000,000 for fiscal year 2012;

(3) $1,000,000 for fiscal year 2013;

(4) $1,000,000 for fiscal year 2014; and

(5) $1,000,000 for fiscal year 2015.

SEC. 203. TECHNICAL ASSISTANCE FOR AWARDEES.

Section 9(q) of the Small Business Act (15 U.S.C. 638(q)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or STTR program'' after ''SBIR program''; and

(B) by striking ''SBIR projects'' and inserting ''SBIR or STTR projects'';

(2) in paragraph (2), by striking ''3 years'' and inserting ''5 years''; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by inserting ''or STTR'' after ''SBIR''; and

(ii) by striking ''$4,000'' and inserting ''$5,000'';

(B) by striking subparagraph (B) and inserting the following:

''(B) PHASE II.—A Federal agency described in paragraph (1) may—

''(i) provide to the recipient of a Phase II SBIR or STTR award, through a vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than $5,000 per year; or

''(ii) authorize the recipient of a Phase II SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than $5,000 per year, which shall be in addition to the amount of the recipient's award.''; and

(C) by adding at the end the following:

''(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

''(D) LIMITATION.—A Federal agency may not—

''(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

''(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.''.

SEC. 204. COMMERCIALIZATION READINESS PROGRAM AT DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking ''PILOT'' and inserting ''READINESS'';

(2) by striking ''Pilot'' each place that term appears and inserting ''Readiness'';

(3) in paragraph (1)—

(A) by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program''; and

(B) by adding at the end the following: ''The authority to create and administer a Commercialization Readiness Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).'';

(4) in paragraph (2), by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program'';

(5) by striking paragraphs (5) and (6); and

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

''(5) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

''(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

''(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

''(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

''(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

''(B) use incentives in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2010, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

''(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Readiness Program and efforts to transition these technologies into programs of record or fielded systems.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 9(i)(1) of the Small Business Act (15 U.S.C. 638(i)(1)) is amended by inserting ''(including awards under subsection (y))'' after ''the number of awards''.

SEC. 205. COMMERCIALIZATION READINESS PILOT PROGRAM FOR CIVILIAN AGENCIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ff) PILOT PROGRAM.—

''(1) AUTHORIZATION.—The head of each covered Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the covered Federal agency—

''(A) for awards for technology development, testing, and evaluation of SBIR and STTR Phase II technologies; or

''(B) to support the progress of research or research and development conducted under the SBIR or STTR programs to Phase III.

''(2) APPLICATION BY FEDERAL AGENCY.—

''(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless the covered Federal agency makes a written application to the Administrator, not later than 90 days before to the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

''(B) DETERMINATION.—The Administrator shall—

''(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

''(ii) publish the determination in the Federal Register; and

''(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(3) MAXIMUM AMOUNT OF AWARD.—The head of a covered Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

''(4) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

''(5) REPORT.—The head of each covered Federal agency shall include in the annual report of the covered Federal agency to the Administrator an analysis of the various activities considered for inclusion in the pilot program of the covered Federal agency and a statement of the reasons why each activity considered was included or not included, as the case may be.

''(6) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

''(7) DEFINITIONS.—In this subsection—

''(A) the term 'covered Federal agency'—

''(i) means a Federal agency participating in the SBIR program or the STTR program; and

''(ii) does not include the Department of Defense; and

''(B) the term 'pilot program' means the program established under paragraph (1).''.

SEC. 206. ACCELERATING CURES.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 42, as redesignated by section 201 of this Act, the following:

''SEC. 43. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

''(a) NIH CURES PILOT.—

''(1) ESTABLISHMENT.—An independent advisory board shall be established at the National Academy of Sciences (in this section referred to as the 'advisory board') to conduct periodic evaluations of the SBIR program (as that term is defined in section 9) of each of the National Institutes of Health (referred to in this section as the 'NIH') institutes and centers for the purpose of improving the management of the SBIR program through data-driven assessment.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The advisory board shall consist of—

''(i) the Director of the NIH;

''(ii) the Director of the SBIR program of the NIH;

''(iii) senior NIH agency managers, selected by the Director of NIH;

''(iv) industry experts, selected by the Council of the National Academy of Sciences in consultation with the Associate Administrator for Technology of the Administration and the Director of the Office of Science and Technology Policy; and

''(v) owners or operators of small business concerns that have received an award under the SBIR program of the NIH, selected by the Associate Administrator for Technology of the Administration.

''(B) NUMBER OF MEMBERS.—The total number of members selected under clauses (iii), (iv), and (v) of subparagraph (A) shall not exceed 10.

''(C) EQUAL REPRESENTATION.—The total number of members of the advisory board selected under clauses (i), (ii), (iii), and (iv) of subparagraph (A) shall be equal to the number of members of the advisory board selected under subparagraph (A)(v).

''(b) ADDRESSING DATA GAPS.—In order to enhance the evidence-base guiding SBIR program decisions and changes, the Director of the SBIR program of the NIH shall address the gaps and deficiencies in the data collection concerns identified in the 2007 report of the National Academies of Science entitled 'An Assessment of the Small Business Innovation Research Program at the NIH'.

''(c) PILOT PROGRAM.—

''(1) IN GENERAL.—The Director of the SBIR program of the NIH may initiate a pilot program, under a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the development of cures and therapies.

''(2) CONSIDERATIONS.—The Director of the SBIR program of the NIH may consider conducting a pilot program to include individuals with successful SBIR program experience in study sections, hiring individuals with small business development experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

''(d) REPORT TO CONGRESS.—The Director of the NIH shall submit an annual report to Congress and the advisory board on the activities of the SBIR program of the NIH under this section.

''(e) SBIR GRANTS AND CONTRACTS.—

''(1) IN GENERAL.—In awarding grants and contracts under the SBIR program of the NIH each SBIR program manager shall emphasize applications that identify products, processes, technologies, and services that may enhance the development of cures and therapies.

''(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The advisory board shall evaluate the implementation of the requirement under paragraph (1) by examining increased commercialization and other metrics, to be determined and collected by the SBIR program of the NIH.

''(3) PHASE I AND II.—To the greatest extent practicable, the Director of the SBIR program of the NIH shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR program of the NIH to 90 days.

''(f) LIMIT.—Not more than a total of 1 percent of the extramural budget (as defined in

section 9 of the Small Business Act (15 U.S.C. 638)) of the NIH for research or research and development may be used for the pilot program under subsection (c) and to carry out subsection (e).''.

(b) PROSPECTIVE REPEAL.—Effective 5 years after the date of enactment of this Act, the Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by striking section 43, as added by subsection (a); and

(2) by redesignating sections 44 and 45 as sections 43 and 44, respectively.

SEC. 207. FEDERAL AGENCY ENGAGEMENT WITH SBIR AND STTR AWARDEES THAT HAVE BEEN AWARDED MULTIPLE PHASE I AWARDS BUT HAVE NOT BEEN AWARDED PHASE II AWARDS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(gg) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN PHASE I SBIR AND STTR AWARDEES.—

''(1) DEFINITION.—In this subsection, the term 'covered awardee' means a small business concern that—

''(A) has received multiple Phase I awards over multiple years, as determined by the head of a Federal agency, under the SBIR program or the STTR program of the Federal agency; and

''(B) has not received a Phase II award—

''(i) under the SBIR program or STTR program, as the case may be, of the Federal agency described in subparagraph (A); or

''(ii) relating to a Phase I award described in subparagraph (A) under the SBIR program or the STTR program of another Federal agency.

''(2) PERFORMANCE MEASURES.—The head of each Federal agency that participates in the SBIR program or the STTR program shall develop performance measures for any covered awardee relating to commercializing research or research and development activities under the SBIR program or the STTR program of the Federal agency.''.

SEC. 208. CLARIFYING THE DEFINITION OF ''PHASE III''.

(a) PHASE III AWARDS.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(C), in the matter preceding clause (i), by inserting ''for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program'' after ''phase'';

(2) in paragraph (6)(C), in the matter preceding clause (i), by inserting ''for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program'' after ''phase'';

(3) in paragraph (8), by striking ''and'' at the end;

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

''(10) the term 'commercialization' means—

''(A) the process of developing products, processes, technologies, or services; and

''(B) the production and delivery of products, processes, technologies, or services for sale (whether by the originating party or by others) to or use by the Federal Government or commercial markets;''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 9 (15 U.S.C. 638)—

(A) in subsection (e)—

(i) in paragraph (4)(C)(ii), by striking ''scientific review criteria'' and inserting ''merit-based selection procedures'';

(ii) in paragraph (9), by striking ''the second or the third phase'' and inserting ''Phase II or Phase III''; and

(iii) by adding at the end the following:

''(11) the term 'Phase I' means—

''(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

''(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

''(12) the term 'Phase II' means—

''(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

''(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

''(13) the term 'Phase III' means—

''(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

''(B) with respect to the STTR program, the third phase described in paragraph (6)(C).'';

(B) in subsection (j)—

(i) in paragraph (1)(B), by striking ''phase two'' and inserting ''Phase II'';

(ii) in paragraph (2)—

(I) in subparagraph (B)—

(aa) by striking ''the third phase'' each place it appears and inserting ''Phase III''; and

(bb) by striking ''the second phase'' and inserting ''Phase II'';

(II) in subparagraph (D)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II'';

(III) in subparagraph (F), by striking ''the third phase'' and inserting ''Phase III'';

(IV) in subparagraph (G)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II''; and

(V) in subparagraph (H)—

(aa) by striking ''the first phase'' and inserting ''Phase I'';

(bb) by striking ''second phase'' each place it appears and inserting ''Phase II''; and

(cc) by striking ''third phase'' and inserting ''Phase III''; and

(iii) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by striking ''the first phase (as described in subsection (e)(4)(A))'' and inserting ''Phase I'';

(bb) by striking ''the second phase (as described in subsection (e)(4)(B))'' and inserting ''Phase II''; and

(cc) by striking ''the third phase (as described in subsection (e)(4)(C))'' and inserting ''Phase III''; and

(II) in subparagraph (B), by striking ''second phase'' and inserting ''Phase II'';

(C) in subsection (k)—

(i) by striking ''first phase'' each place it appears and inserting ''Phase I''; and

(ii) by striking ''second phase'' each place it appears and inserting ''Phase II'';

(D) in subsection (l)(2)—

(i) by striking ''the first phase'' and inserting ''Phase I''; and

(ii) by striking ''the second phase'' and inserting ''Phase II'';

(E) in subsection (o)(13)—

(i) in subparagraph (B), by striking ''second phase'' and inserting ''Phase II''; and

(ii) in subparagraph (C), by striking ''third phase'' and inserting ''Phase III'';

(F) in subsection (p)—

(i) in paragraph (2)(B)—

(I) in clause (vi)—

(aa) by striking ''the second phase'' and inserting ''Phase II''; and

(bb) by striking ''the third phase'' and inserting ''Phase III''; and

(II) in clause (ix)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II''; and

(ii) in paragraph (3)—

(I) by striking ''the first phase (as described in subsection (e)(6)(A))'' and inserting ''Phase I'';

(II) by striking ''the second phase (as described in subsection (e)(6)(B))'' and inserting ''Phase II''; and

(III) by striking ''the third phase (as described in subsection (e)(6)(A))'' and inserting ''Phase III'';

(G) in subsection (q)(3)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking ''FIRST PHASE'' and inserting ''PHASE I''; and

(II) by striking ''first phase'' and inserting ''Phase I''; and

(ii) in subparagraph (B)—

(I) in the subparagraph heading, by striking ''SECOND PHASE'' and inserting ''PHASE II''; and

(II) by striking ''second phase'' and inserting ''Phase II'';

(H) in subsection (r)—

(i) in the subsection heading, by striking ''THIRD PHASE'' and inserting ''PHASE III'';

(ii) in paragraph (1)—

(I) in the first sentence—

(aa) by striking ''for the second phase'' and inserting ''for Phase II'';

(bb) by striking ''third phase'' and inserting ''Phase III''; and

(cc) by striking ''second phase period'' and inserting ''Phase II period''; and

(II) in the second sentence—

(aa) by striking ''second phase'' and inserting ''Phase II''; and

(bb) by striking ''third phase'' and inserting ''Phase III''; and

(iii) in paragraph (2), by striking ''third phase'' and inserting ''Phase III''; and

(I) in subsection (u)(2)(B), by striking ''the first phase'' and inserting ''Phase I''; and

(2) in section 34(c)(2)(B)(vii) (15 U.S.C. 657e(c)(2)(B)(vii)), as redesignated by section 201 of this Act, by striking ''third phase'' and inserting ''Phase III''.

SEC. 209. SHORTENED PERIOD FOR FINAL DECISIONS ON PROPOSALS AND APPLICATIONS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (g)(4)—

(A) by inserting ''(A)'' after ''(4)'';

(B) by adding ''and'' after the semicolon at the end; and

(C) by adding at the end the following:

''(B) make a final decision on each proposal submitted under the SBIR program—

''(i) not later than 90 days after the date on which the solicitation closes; or

''(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;''; and

(2) in subsection (o)(4)—

(A) by inserting ''(A)'' after ''(4)'';

(B) by adding ''and'' after the semicolon at the end; and

(C) by adding at the end the following:

''(B) make a final decision on each proposal submitted under the STTR program—

''(i) not later than 90 days after the date on which the solicitation closes; or

''(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;''.

(b) NIH PEER REVIEW PROCESS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(hh) NIH PEER REVIEW PROCESS.—The Director of the National Institutes of Health may make an award under the SBIR program or the STTR program of the National Institutes of Health if the application for the

award has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a).''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 105 of the National Institutes of Health Reform Act of 2006 (42 U.S.C. 284n) is amended—

(A) in subsection (a)(3)—

(i) by striking ''A grant'' and inserting ''Except as provided in section 9(hh) of the Small Business Act (15 U.S.C. 638(hh)), a grant''; and

(ii) by striking ''section 402(k)'' and all that follows through ''Act)'' and inserting ''section 402(l) of such Act''; and

(B) in subsection (b)(5)—

(i) by striking ''A grant'' and inserting ''Except as provided in section 9(hh) of the Small Business Act (15 U.S.C. 638(hh)), a grant''; and

(ii) by striking ''section 402(k)'' and all that follows through ''Act)'' and inserting ''section 402(l) of such Act''.

TITLE III—OVERSIGHT AND EVALUATION

SEC. 301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)), as amended by section 102 of this Act, is amended—

(1) in paragraph (7)—

(A) by striking ''STTR programs, including the data'' and inserting the following: ''STTR programs, including—

''(A) the data'';

(B) by striking ''(g)(10), (o)(9), and (o)(15), the number'' and all that follows through ''under each of the SBIR and STTR programs, and a description'' and inserting the following: ''(g)(8) and (o)(9); and

''(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital investment (including those majority-owned and controlled by multiple venture capital operating companies) under each of the SBIR and STTR programs;

''(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

''(D) general information about the implementation of, and compliance with the allocation of funds required under, subsection (cc) for firms owned in majority part by venture capital operating companies and participating in the SBIR program;

''(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR Policy Directive and the STTR Policy Directive filed by the Administrator with Federal agencies; and

''(F) a description''; and

(2) by inserting after paragraph (7) the following:

''(8) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data;''.

SEC. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(3) by inserting after paragraph (7) the following:

''(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

''(A) whether an awardee—

''(i) has venture capital or is majority-owned and controlled by multiple venture capital operating companies, and, if so—

''(I) the amount of venture capital that the awardee has received as of the date of the award; and

''(II) the amount of additional capital that the awardee has invested in the SBIR technology;

''(ii) has an investor that—

''(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

''(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

''(iii) is owned by a woman or has a woman as a principal investigator;

''(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(v) received assistance under the FAST program under section 34, as in effect on the day before the date of enactment of the SBIR/STTR Reauthorization Act of 2010, or the outreach program under subsection (s);

''(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

''(vii) is located in a State described in subsection (u)(3); and

''(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;''.

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended by striking paragraph (9) and inserting the following:

''(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

''(A) whether an applicant or awardee—

''(i) has venture capital or is majority-owned and controlled by multiple venture capital operating companies, and, if so—

''(I) the amount of venture capital that the applicant or awardee has received as of the date of the application or award, as applicable; and

''(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

''(ii) has an investor that—

''(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

''(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

''(iii) is owned by a woman or has a woman as a principal investigator;

''(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

''(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

''(vii) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

''(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;''.

SEC. 304. PUBLIC DATABASE.

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

''(i) has venture capital and, if so, whether the small business concern is registered as majority-owned and controlled by multiple venture capital operating companies as required under subsection (cc)(4);

''(ii) is owned by a woman or has a woman as a principal investigator;

''(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(iv) received assistance under the FAST program under section 34, as in effect on the day before the date of enactment of the SBIR/STTR Reauthorization Act of 2010, or the outreach program under subsection (s); or

''(v) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

SEC. 305. GOVERNMENT DATABASE.

Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''Not later'' and all that follows through ''Act of 2000'' and inserting ''Not later than 90 days after the date of enactment of the SBIR/STTR Reauthorization Act of 2010'';

(B) by striking subparagraph (C);

(C) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(D) by inserting before subparagraph (B), as so redesignated, the following:

''(A) contains, for each small business concern that applies for, submits a proposal for, or receives an award under Phase I or Phase II of the SBIR program or the STTR program—

''(i) the name, size, and location, and an identifying number assigned by the Administration of the small business concern;

''(ii) an abstract of the project;

''(iii) the specific aims of the project;

''(iv) the number of employees of the small business concern;

''(v) the names of key individuals that will carry out the project;

''(vi) the percentage of effort each individual described in clause (iv) will contribute to the project;

''(vii) whether the small business concern is majority-owned and controlled by multiple venture capital operating companies; and

''(viii) the Federal agency to which the application is made, and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making awards under the SBIR program or the STTR program;'';

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

(F) by inserting after subparagraph (C), as so redesignated, the following:

''(D) includes, for each awardee—

''(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

''(ii) whether the awardee has venture capital, and, if so—

''(I) the amount of venture capital as of the date of the award;

''(II) the percentage of ownership of the awardee held by a venture capital operating company, including whether the awardee is majority-owned and controlled by multiple venture capital operating companies; and

''(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

''(iii) the names and locations of any affiliates of the awardee;

''(iv) the number of employees of the awardee;

''(v) the number of employees of the affiliates of the awardee; and

''(vi) the names of, and the percentage of ownership of the awardee held by—

''(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

''(II) any person that is not an individual and is not organized under the laws of a State or the United States;'';

(G) in subparagraph (E), as so redesignated, by striking ''and'' at the end;

(H) in subparagraph (F), as so redesignated, by striking the period at the end and inserting ''; and''; and

(I) by adding at the end the following:

''(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has committed fraud, waste, or abuse relating to the SBIR program or STTR program.''; and

(2) in paragraph (3), by adding at the end the following:

''(C) GOVERNMENT DATABASE.—Not later than 60 days after the date established by a Federal agency for submitting applications or proposals for a Phase I or Phase II award under the SBIR program or STTR program, the head of the Federal agency shall submit to the Administrator the data required under paragraph (2) with respect to each small business concern that applies or submits a proposal for the Phase I or Phase II award.''.

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every year thereafter until the date that is 4 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration;

(C) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency; and

(D) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraphs (B) and (C), and the determination made under subparagraph (D) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term ''applicable period'' means—

(1) for the first report submitted under this section, the period beginning on October 1, 2004, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

''(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the SBIR/STTR Reauthorization Act of 2010, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to, not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2010, and every 4 years thereafter—

''(A) continue the most recent study under this section relating to—

''(i) the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1); and

''(ii) the effectiveness of the government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals;

''(B) make recommendations with respect to the issues described in subparagraph (A)(ii) and subparagraphs (A), (D), and (E) of subsection (a)(2).

''(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

''(3) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2010, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).''.

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ii) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

''(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

''(2) the name of the small business concern or individual receiving the Phase III award; and

''(3) the dollar amount of the Phase III award.''.

SEC. 309. INTELLECTUAL PROPERTY PROTECTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies comply with the data rights protections for SBIR awardees and the technologies of SBIR awardees under section 9 of the Small Business Act (15 U.S.C. 638);

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes and mentor-protégé relationships and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the study conducted under subsection (a).

SEC. 310. OBTAINING CONSENT FROM SBIR AND STTR APPLICANTS TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(jj) CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS.—

''(1) ENABLING CONCERN TO GIVE CONSENT.—Each Federal agency required by this section to conduct an SBIR program or an STTR program shall enable a small business concern that is an SBIR applicant or an STTR applicant to indicate to the Federal agency whether the Federal agency has the consent of the concern to—

''(A) identify the concern to appropriate local and State-level economic development organizations as an SBIR applicant or an STTR applicant; and

''(B) release the contact information of the concern to such organizations.

''(2) RULES.—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that a Federal agency include in the SBIR and

STTR application a provision through which the applicant can indicate consent for purposes of paragraph (1).''.

SEC. 311. PILOT TO ALLOW FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(kk) ASSISTANCE FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.—

''(1) IN GENERAL.—Subject to paragraph (3), the Administrator shall allow each Federal agency required to conduct an SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency—

''(A) for the first fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter through fiscal year 2018, for costs relating to administrative, oversight, and contract processing activities for the SBIR program that the Federal agency was not carrying out during the last full fiscal year before the date of enactment of this subsection, including activities described in paragraph (2); and

''(B) for the first 3 fiscal years beginning after the date of enactment of this subsection, for—

''(i) administration of the SBIR program or the STTR program;

''(ii) implementation of commercialization and outreach initiatives that were not in effect on the date of enactment of this subsection;

''(iii) carrying out the program under subsection (y);

''(iv) activities relating to oversight and congressional reporting, including the waste, fraud, and abuse prevention activities described in section 313(a)(1)(B)(ii) of the SBIR/STTR Reauthorization Act of 2010;

''(v) carrying out subsection (cc);

''(vi) carrying out subsection (ff);

''(vii) contract processing costs relating to the SBIR program; and

''(viii) funding for additional personnel and assistance with application reviews.

''(2) ACTIVITIES.—The activities described in this paragraph include—

''(A) the administration of the SBIR program or the STTR program of a Federal agency;

''(B) the provision of outreach and technical assistance relating to the SBIR program of a Federal agency, including technical assistance site visits and personnel interviews;

''(C) contract processing;

''(D) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews; and

''(E) targeted reviews of recipients of awards under the SBIR program that the head of a Federal agency determines are at high risk for fraud, waste, or abuse, to ensure compliance with requirements of the SBIR program.

''(3) PERFORMANCE CRITERIA.—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

''(4) RULES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall issue rules to carry out this subsection.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(A) in subsection (f)(2)(A), as so designated by section 103(2) of this Act, by striking ''shall not'' and all that follows through ''make available for the purpose'' and inserting ''shall not make available for the purpose''; and

(B) in subsection (y), as amended by section 204—

(i) by striking paragraph (4);

(ii) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) TRANSITIONAL RULE.—Notwithstanding the amendments made by paragraph (1), subsection (f)(2)(A) and (y)(4) of section 9 of the Small Business Act (15 U.S.C. 638), as in effect on the day before the date of enactment of this Act, shall continue to apply to each Federal agency until the effective date of the performance criteria established by the Administrator under subsection (kk)(3) of section 9 of the Small Business Act, as added by subsection (a).

SEC. 312. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT.

Not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the impact of requirements relating to venture capital operating company involvement under section 9(cc) of the Small Business Act, as added by section 108 of this Act; and

(2) submit to Congress a report regarding the study conducted under paragraph (1).

SEC. 313. REDUCING VULNERABILITY OF SBIR AND STTR PROGRAMS TO FRAUD, WASTE, AND ABUSE.

(a) FRAUD, WASTE, AND ABUSE PREVENTION.—

(1) GUIDELINES FOR FRAUD, WASTE, AND ABUSE PREVENTION.—

(A) AMENDMENTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse in the SBIR program and the STTR program.

(B) CONTENT OF AMENDMENTS.—The amendments required under subparagraph (A) shall include—

(i) definitions or descriptions of fraud, waste, and abuse;

(ii) a requirement that the Inspectors General of each Federal agency that participates in the SBIR program or the STTR program cooperate to—

(I) establish fraud detection indicators;

(II) review regulations and operating procedures of the Federal agencies;

(III) coordinate information sharing between the Federal agencies; and

(IV) improve the education and training of, and outreach to—

(aa) administrators of the SBIR program and the STTR program of each Federal agency;

(bb) applicants to the SBIR program or the STTR program; and

(cc) recipients of awards under the SBIR program or the STTR program;

(iii) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program; and

(iv) a requirement that each Federal agency that participates in the SBIR program or STTR program include the telephone number of the hotline established under paragraph (2)—

(I) on the website of the Federal agency; and

(II) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program.

(2) FRAUD, WASTE, AND ABUSE PREVENTION HOTLINE.—

(A) HOTLINE ESTABLISHED.—The Administrator shall establish a telephone hotline that allows individuals to report fraud, waste, and abuse in the SBIR program or STTR program.

(B) PUBLICATION.—The Administrator shall include the telephone number for the hotline established under subparagraph (A) on the website of the Administration.

(b) STUDY AND REPORT.—

(1) STUDY.—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(A) conduct a study that evaluates—

(i) the implementation by each Federal agency that participates in the SBIR program or the STTR program of the amendments to the SBIR Policy Directive and the STTR Policy Directive made pursuant to subsection (a);

(ii) the effectiveness of the management information system of each Federal agency that participates in the SBIR program or STTR program in identifying duplicative SBIR and STTR projects;

(iii) the effectiveness of the risk management strategies of each Federal agency that participates in the SBIR program or STTR program in identifying areas of the SBIR program or the STTR program that are at high risk for fraud;

(iv) technological tools that may be used to detect patterns of behavior that may indicate fraud by applicants to the SBIR program or the STTR program;

(v) the success of each Federal agency that participates in the SBIR program or STTR program in reducing fraud, waste, and abuse in the SBIR program or the STTR program of the Federal agency; and

(vi) the extent to which the Inspector General of each Federal agency that participates in the SBIR program or STTR program effectively conducts investigations of individuals alleged to have submitted false claims or violated Federal law relating to fraud, conflicts of interest, bribery, gratuity, or other misconduct; and

(B) submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and the head of each Federal agency that participates in the SBIR program or STTR program a report on the results of the study conducted under subparagraph (A).

SEC. 314. INTERAGENCY POLICY COMMITTEE.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy (in this section referred to as the ''Director''), in conjunction with the Administrator, shall establish an Interagency SBIR/STTR Policy Committee (in this section referred to as the ''Committee'') comprised of 1 representative from each Federal agency with an SBIR program or an STTR program and 1 representative of the Office of Management and Budget.

(b) COCHAIRPERSONS.—The Director and the Administrator shall serve as cochairpersons of the Committee.

(c) DUTIES.—The Committee shall review, and make policy recommendations on ways to improve the effectiveness and efficiency of, the SBIR program and the STTR program, including —

(1) reviewing the effectiveness of the public and government databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k));

(2) identifying—

(A) best practices for commercialization assistance by Federal agencies that have significant potential to be employed by other Federal agencies; and

(B) proposals by Federal agencies for initiatives to address challenges for small business concerns in obtaining funding after a Phase II award ends and before commercialization; and

(3) developing and incorporating a standard evaluation framework to enable systematic assessment of the SBIR program and STTR program, including through improved tracking of awards and outcomes and development of performance measures for the SBIR program and STTR program of each Federal agency.

(d) REPORTS.—The Committee shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Science and Technology and the Committee on Small Business of the House of Representatives—

(1) a report on the review by and recommendations of the Committee under subsection (c)(1) not later than 1 year after the date of enactment of this Act;

(2) a report on the review by and recommendations of the Committee under subsection (c)(2) not later than 18 months after the date of enactment of this Act; and

(3) a report on the review by and recommendations of the Committee under subsection (c)(3) not later than 2 years after the date of enactment of this Act.

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

TITLE V—OTHER PROVISIONS

SEC. 501. RESEARCH TOPICS AND PROGRAM DIVERSIFICATION.

(a) SBIR PROGRAM.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''broad research topics and to topics that further 1 or more critical technologies'' and inserting ''applications to the Federal agency for support of projects relating to nanotechnology, rare diseases, security, energy, transportation, or improving the security and quality of the water supply of the United States, and the efficiency of water delivery systems and usage patterns in the United States (including the territories of the United States) through the use of technology (to the extent that the projects relate to the mission of the Federal agency), broad research topics, and topics that further 1 or more critical technologies or research priorities'';

(B) in subparagraph (A), by striking ''or'' at the end; and

(C) by adding at the end the following:

''(C) the National Academy of Sciences, in the final report issued by the 'America's Energy Future: Technology Opportunities, Risks, and Tradeoffs' project, and in any subsequent report by the National Academy of Sciences on sustainability, energy, or alternative fuels;

''(D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in any subsequent report by the National Institutes of Health on rare diseases research activities;

''(E) the National Academy of Sciences, in the final report issued by the 'Transit Research and Development: Federal Role in the National Program' project and the report entitled 'Transportation Research, Development and Technology Strategic Plan (2006-2010)' issued by the Research and Innovative Technology Administration of the Department of Transportation, and in any subsequent report issued by the National Academy of Sciences or the Department of Transportation on transportation and infrastructure; or

''(F) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in any report issued by the National Science and Technology Council Committee on Technology that focuses on areas of nanotechnology identified in such plan;''; and

(2) by adding after paragraph (12), as added by section 111(a) of this Act, the following:

''(13) encourage applications under the SBIR program (to the extent that the projects relate to the mission of the Federal agency)—

''(A) from small business concerns in geographic areas underrepresented in the SBIR program or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

''(B) small business concerns owned and controlled by women;

''(C) small business concerns owned and controlled by veterans;

''(D) small business concerns owned and controlled by Native Americans; and

''(E) small business concerns located in a geographic area with an unemployment rates that exceed the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.''.

(b) STTR PROGRAM.—Section 9(o) of the Small Business Act (15 U.S.C. 638(o)), as amended by section 111(b) of this Act, is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''broad research topics and to topics that further 1 or more critical technologies'' and inserting ''applications to the Federal agency for support of projects relating to nanotechnology, security, energy, rare diseases, transportation, or improving the security and quality of the water supply of the United States (to the extent that the projects relate to the mission of the Federal agency), broad research topics, and topics that further 1 or more critical technologies or research priorities'';

(B) in subparagraph (A), by striking ''or'' at the end; and

(C) by adding at the end the following:

''(C) the National Academy of Sciences, in the final report issued by the 'America's Energy Future: Technology Opportunities, Risks, and Tradeoffs' project, and in any subsequent report by the National Academy of Sciences on sustainability, energy, or alternative fuels;

''(D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in any subsequent report by the National Institutes of Health on rare diseases research activities;

''(E) the National Academy of Sciences, in the final report issued by the 'Transit Research and Development: Federal Role in the National Program' project and the report entitled 'Transportation Research, Development and Technology Strategic Plan (2006-2010)' issued by the Research and Innovative Technology Administration of the Department of Transportation, and in any subsequent report issued by the National Academy of Sciences or the Department of Transportation on transportation and infrastructure; or

''(F) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in any report issued by the National Science and Technology Council Committee on Technology that focuses on areas of nanotechnology identified in such plan;'';

(2) in paragraph (15), by striking ''and'' at the end;

(3) in paragraph (16), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(17) encourage applications under the STTR program (to the extent that the projects relate to the mission of the Federal agency)—

''(A) from small business concerns in geographic areas underrepresented in the STTR program or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

''(B) small business concerns owned and controlled by women;

''(C) small business concerns owned and controlled by veterans;

''(D) small business concerns owned and controlled by Native Americans; and

''(E) small business concerns located in a geographic area with an unemployment rates that exceed the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.''.

(c) RESEARCH AND DEVELOPMENT FOCUS.—Section 9(x) of the Small Business Act (15 U.S.C. 638(x)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 502. REPORT ON SBIR AND STTR PROGRAM GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ll) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

''(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

''(A) are science-based and statistically driven;

''(B) reflect the mission of the Federal agency; and

''(C) include factors relating to the economic impact of the programs.

''(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

''(A) the SBIR program and the STTR program of the Federal agency; and

''(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

''(3) REPORT.—

''(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

''(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

''(C) DEFINITION.—In this paragraph, the term 'appropriate committees of Congress' means—

''(i) the Committee on Small Business and Entrepreneurship of the Senate; and

''(ii) the Committee on Small Business and the Committee on Science and Technology of the House of Representatives.''.

SEC. 503. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(mm) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.''.

OMNIBUS TRADE ACT OF 2010

Mr. BROWN of Ohio. Mr. President, I thank the Republican leader for his willingness to let us move on this UC.

I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 6517, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 6517) to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. CONRAD. This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 6517, as amended.

Total Budgetary Effects of H.R. 6517 for the 5-year Statutory PAYGO Scorecard: net decrease in the deficit of $2.208 billion.

Total Budgetary Effects of H.R. 6517 for the 10-year Statutory PAYGO Scorecard: net decrease in the deficit of $450 billion.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR THE SENATE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 6517, THE OMNIBUS TRADE ACT OF 2010, AS TRANSMITTED TO CBO ON DECEMBER 22, 2010

[Millions of dollars, by fiscal year]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
	Net Increase or Decrease (−) in the Deficit											
Statutory Pay-As-You-Go Impact	122	115	25	5	−2,475	2,475	0	0	0	−717	−2208	−450

Note: Components may not sum to totals because of rounding.
Source: Congressional Budget Office and staff of the Joint Committee on Taxation.

Mr. BROWN of OHIO. Mr. President, I ask unanimous consent that the Brown amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid on the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 4924) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed and the bill to be read a third time. The bill (H.R. 6517), as amended, was read the third time, and passed.

Mr. BROWN of Ohio. Mr. President, in light of the generosity of the Republican leader and the assistant majority leader, 30 seconds.

This agreement among Senator CASEY, Senator KYL, Senator MCCAIN, and me will make a difference in restoring TAA, trade adjustment, and the health care tax credit, in addition to the Andean trade references and some other things that will make a difference.

It will make a difference. It will mean that 50,000 people don't lose their health insurance the first of the year. I am appreciative of all who have been part of this.

I will yield to Senator CASEY for a moment. I thank the leaders for their generosity.

Mr. CASEY. Mr. President, I thank Senator BROWN, as well as Senators MCCAIN and KYL, for entering into this agreement. It extends this for a short period of time. It is important as it relates to manufacturing jobs in a State such as ours, where we have lost over 200,000 in less than a decade. I am sure that number corresponds to other States' losses. We are grateful for this extension. We have more work to do.

The PRESIDING OFFICER. The Republican leader is recognized.

TRIBUTE TO BILLY PIPER

Mr. MCCONNELL. Mr. President, over the course of the last two decades I have had the honor of watching a very smart, but very green young man from Louisville grow into one of the finest people you could ever work with or call a friend.

There is almost no hat that Billy Piper has not worn in the 19 years he has worked in my office—from driver, to mailroom staffer, to legislative aide, to campaign worker, all the way up to chief of staff.

He's done it all. And in the course of doing it all, he became indispensable to me. And that's why it is so hard to say goodbye. But Billy has simply given too much of himself to leave without a proper send-off.

One of Billy's defining traits is that he deflects praise. This morning I would like to deny him the chance.

A native of Louisville, Billy attended the Kentucky Country Day school and then moved to Virginia to attend the University of Richmond. He spent a semester here in Washington studying public policy and politics and did an internship with Senator LUGAR's office, which he liked so much he decided to look for a permanent job on the Hill. And I would like to thank Senator LUGAR today for inspiring Billy to public service.

Billy was so eager to take a job in my office, in fact, that he agreed to be a driver even after he learned I had a stick shift—which he didn't know how to drive. His knowledge of Washington, D.C., streets wasn't that much better. But he decided the best way to learn both was by driving around a U.S. Senator. Our first day on the road was a little rough. But ever since he mastered the clutch, Billy hasn't made a misstep since. When he wasn't driving, Billy sorted the mail that came into the office. And it didn't take long for me to see this young man had a lot of potential, so I gave him more and more responsibility.

He became a legislative correspondent, handling military and foreign affairs. And in 1996 I asked him to be the finance director for my reelection campaign. Without hesitation, Billy left a secure position and his home for an extremely hard campaign job on the road. It wasn't an easy job. And in any campaign, there's no guarantee of victory. But Billy excelled at it, as usual, and at every task I've given him since.

Ask other members of my staff to describe Billy and they will tell you he's not only a friend, but a teacher and a mentor.

Lots of people come to Capitol Hill with good intentions and wanting to do the right thing—but not all of them learn how to get things done. In my office, the road to mastery of any job usually ran through Billy Piper. First of all, Billy puts everyone at ease, from the college student applying for an internship to heads of state. He treats everyone the same, regardless of their station. He also refuses to take praise, and even if he does, he's usually eager to deflect it onto the rest of the team. He's also got a wicked sense of humor. It's a regular part of the day to hear laughter pealing from Billy's office.

Billy became the chief of staff in my personal office toward the end of 2002. And for the last 8 years, he has shown first-class leadership as the steady

hand at the wheel. He has shown extraordinarily sound judgment. He's always been ready to do whatever he was asked, whatever it took. Most of all, Billy knew who we all worked for: 4 million Kentuckians. For 8 years, Billy has been my right-hand man.

Two years ago, Billy was invaluable to me in my reelection campaign. Once again, he proved himself equal to any challenge. He was the one man who knew everything that was going on and what everyone else was doing. He was and is unflappable, steady, and always confident.

He gave it everything he had—and always with a smile on his face. And it wasn't easy for him, I know. With a young family at home, he sacrificed much. He's very fortunate that Holly's an understanding wife.

More than anyone else, Billy is responsible for fostering the feeling of family in my office. It's one of the things we'll miss most about him. He always made staff feel like they're more than just a group of people in an office. He's grown close to a lot of them over the years, and they all love him and admire him.

But as tough as this change is for me, I know it's as tough for Billy too. Here's a guy who went to the same school from kindergarten through the 12th grade, lived in the same house his whole childhood, and has had the same work e-mail address since we started using e-mail around here. But he is making this change for the right reason. When he announced his decision, Billy said, ''I love this office, I love the Senate, and I love Kentucky . . . but I love my family more.'' And no one can begrudge him that.

So while this is a loss for me, my staff, my colleagues in the Senate, and the many people he's helped in Kentucky over the years, it is a gain for Billy's wife Holly, and their two little boys Billy and Tucker. And I wish the Piper family great happiness. I can hardly believe the man I am saying goodbye to is the same young man who stood for a high-school photo with me back in 1986.

Sadly, Billy's parents aren't here to share in Billy's sendoff from the Senate. But if you knew Bill and Ann Piper, you would not be surprised by the kind of person Billy is or the success he has become. And I know they would be bursting with pride if they were here today to see what their son's accomplished. It was the love of a strong family that started Billy off on the right track, and it is because of his love for his family today that we bid him farewell. You can't say Billy Piper's priorities aren't in the right place.

Before I finish, I would just like to read from an e-mail Billy sent to the entire staff on his last day—an e-mail that sums up the kind of guy Billy is. Here's what he wrote: ''The great honor of my professional life has been being able to call myself a McTeamer for nearly 20 years. This is an experience I will treasure all the more because of the wonderful friends I have made along the way. I am better for having known and worked with each of you. Thank you for all you have done and continue to do. I am in your debt.''

Billy, as usual, you are generous with praise for everyone but yourself. But we're the ones who are thankful. We are the ones who are better for having known you. And the honor was all ours. Most of all, though, the honor was mine to stand alongside you through the years, as your mentor and your friend. I watched as you inspired others. You've inspired me. Thank you for your service and your friendship.

Mr. President, I yield the floor.

SENATE ACCOMPLISHMENTS

Mr. DURBIN. Mr. President, just as the majority leader started to leave the floor, I said to him, what an amazing 2 years. I just left an interview upstairs where a major network asked me: What do you think you have accomplished over the last 2 years?

I said to him: I can't speak for what happened 30 or 40 years ago in the Senate; I wasn't around. But I can tell you that in the 28 years I have been in the House and Senate, I have never seen a more amazing, productive session of Congress.

In the Senate, you had to put it into perspective. At the same time we were accomplishing these things, we were facing record numbers of filibusters—more obstacles than ever in history. Yet, when you look at the record that was written over the last 2 years in this Chamber and in the House of Representatives, working with the President, it is nothing short of amazing.

Allow me to go through my checklist here. I am sure others will question some things I put on the list and add some of their own particularly the Senator from Iowa, Senator HARKIN, who certainly is an inspiring leader on so many of these important issues.

First and foremost, the American Recovery and Reinvestment Act. That is what the President came to Washington to initiate to stop this recession and slow down the growth in unemployment. None of us is happy with the state of the economy, but it would have been dramatically worse had we not done that.

Two, Wall Street reform. We looked at the root causes of the recession and said we are going to change the law and add oversight and investigators to stop Wall Street from bringing us another recession some day in the future.

No. 3, the HIRE Act, a jobs package to encourage businesses to hire unemployed workers. We have been focusing on jobs since we got here, and we need to continue that focus.

No. 4 was a measure we passed in this lameduck session, the middle-class tax package, extending middle-class tax breaks for working families and lower income families, I might add, as well as others in the year to come so we can keep this economic growth moving in the right direction.

No. 5, credit card company regulations, long overdue. People complained about abuses by credit card companies, and we passed major regulatory reform.

No. 6, small business lending fund. The Small Business Credit and Jobs Act could provide up to $300 billion in loans to small businesses across America that were having trouble finding money in the private sector. That could, I think, dramatically increase jobs from small businesses.

No. 7 occurred as part of our agenda in the lameduck session, the extension of unemployment insurance. Time and again we did it and then in the tax package we extended it for 13 months so that millions of Americans would have a basic check to buy with each week.

First-time home buyers tax credit is No. 8, which encourages more people to buy homes for the first time and it gave them a tax incentive to achieve that.

The next item I will mention is health care reform. Some would put it as No. 1. I certainly would put it as No. 1 or No. 2. This is the first President in almost 90 years to successfully tackle the challenge of the rising cost of health care and the need for basic reform. Sure, it is controversial, but as the provisions of this health care reform bill unfold and are implemented, they can bring us to a point where the cost of health care will come down and there will be more available to people who currently are not protected.

No. 10, the Children's Health Insurance Program. We reauthorized and expanded it. After two vetoes by the former President, this bill expanded health insurance coverage for over 4 million previously uninsured children.

No. 11—my hats off to the Senator from Iowa—food safety. There were times in the last week or two that it was a dead duck in the lameduck. Somehow or another, it found its wings and started to fly and was passed by both the House and the Senate.

I worked on this measure for 16 years. The Senator from Iowa brought it across the finish line with the kind of skills he has developed as a leader in the Senate. It is great to team up with him. People's lives will be saved and people spared serious illness because of this bill.

No. 12, child nutrition, a favorite of the First Lady. I thank Senator BLANCHE LINCOLN, who is leaving us, for her leadership on this issue. We are providing nutritious meals to hungry children and increasing the Federal reimbursement rate for school meals so local governments do not have to absorb the increased cost.

No. 13—here is an issue front and center in my career in the House and Senate—tobacco regulation. The bill we passed calls on the Food and Drug Administration to regulate the manufacture, sale, and promotion of tobacco products. The things we did in this bill, I say to Senator HARKIN, would have

been unthinkable 10 years ago. But we did them to try to keep these tobacco products out of the hands of kids.

No. 14 on my list is something that passed a few hours ago, ratifying the New START treaty. This is what the President needed. This is what America needed. We only have one President. We want to give him the authority to keep America safe. We want his word to be good. We want him to engage former adversaries as future allies with the passage of the New START treaty.

No. 15 is one near and dear to my heart. It was originally introduced by Hillary Clinton, and when she left to join the President's Cabinet, I asked if I could take up the cause of passing the veterans caregiver assistance bill. In a word, it means those disabled veterans who return home, who are fortunate to have a spouse, a parent, or a member of their family who will sacrifice their own lives to make sure they are comfortable in their homes will receive some help from the government. These are people who get to stay home as disabled veterans and, because someone in the family will stay with them where they want to be, at considerably less expense to our government but in the right, positive environment for our disabled veterans. This bill gives those veteran caregivers a little additional assistance, some respite time, and a modest stipend each month so they can continue to do this invaluable work on behalf of the men and women who sacrifice so much for our country.

No. 16 we passed today as well, the 9/11 Health and Compensation Act. We said so much in tribute to first responders—police, firefighters and others—who came to Ground Zero when they were called. Today we said we were going to stand by them with any illness that came about as a result of that experience.

No. 17, repeal of don't ask, don't tell. I went to that ceremony today, and I have to tell you, I thought it was one of the most profound experiences I had. To see an auditorium filled with people who cared so much for this issue, many of whom have seen their lives wrecked because of discrimination based on their sexual orientation. The Pledge of Allegiance was given by retired Air Force COL Margarethe Cammermeyer. I know her story well because I told it so many times. She was an Air Force nurse who risked her life to save the lives of servicemen in Vietnam who rose through the ranks until one day she announced, when asked, that she was a lesbian. She was discharged, retired from the service. Never in the course of her military career had anything about her sexual preference had any impact on her service to the Nation, but she was discriminated against because of who she was.

She gave the Pledge of Allegiance today with tears in her eyes and joined all of us applauding President Obama as he finally signed this bill repealing don't ask, don't tell.

No. 18 is a bill I worked on, and the most unlikely political odd couple on Capitol Hill, JEFF SESSIONS. It is the Fair Sentencing Act which reduced the unfair disparity in sentencing between crack and powder cocaine. There are literally thousands of men and women serving time in prison because of this disparity in sentencing. Senator SESSIONS and I reached an accommodation, an agreement, a compromise on sentencing which brings us closer to the reality of the danger of the narcotics involved. I thank him for his bipartisan cooperation.

No. 19 is the first bill signed by President Obama as President of the United States, the Lilly Ledbetter Fair Pay Act, to try to once and for all end discrimination of women in the workplace.

No. 20, the hate crimes prevention bill. That is one I think is absolutely essential to renew the promise in America that we will never discriminate against people based on sexual orientation, race, gender, creed, or national origin. That bill was long overdue. The Matthew Shepard family, who helped us pass that bill, was instrumental in moving America forward in the field of human rights.

I am sure Senator HARKIN can add three or four of his own to that list.

When I look back and reflect on 2 years of hard work, it is worth the effort. All the long nights, all the time away from family, some of the frustration, all of the anger, all of it was worth it when we look back in time and say in our time here, many of us believe we have helped to move America forward with the work we have done in the Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I listened very carefully to my friend from Illinois as he went down his list. I admit it is a pretty thorough list. I may have missed one. I was conversing with another Senator briefly. Did I miss the higher education bill? The list covered everything else, I say to my friend. The Higher Education Act, which historically, I say to Senator DURBIN, in 1992, Senator Kennedy, then the chair of the committee which I now chair, had done a study to see whether direct loans would be better than the indirect loans that go through banks for students going to college.

We had this study done, this pilot program. In 1993 and 1994, the pilot program ran. By 1994, the data was in. The Direct Loan Program worked well. It saved tons of money, and the schools liked it, students liked it. Our goal was that in 1995, we were going to then expand it nationwide. Of course, we know what happened in 1995. We lost the Congress. It went to the Republican side.

The Republicans did not want to expand the Direct Loan Program. They wanted to keep it going through the banks. Banks loved it. Who does not like free money? From 1995 on, we never had the opportunity to ever expand the Direct Loan Program and save all this money, until finally when Barack Obama became President and Democrats took over the House and the Senate, we were able to pass it and, as the Senator knows, we signed that into law, I think if I am not mistaken, in February of this year right after we passed the health care bill, and it was part of the health care bill.

In passing that bill, we went from indirect loans to Direct Loan Program and save $60 billion in 10 years. We took that money and put it in better Pell grants for students.

I say to my friend to illustrate, sometimes it takes a long time around here to get things done. If you persevere and the stars align right, you can get it done. It is also a way of saying to my friend from Illinois, thank you for what you did for food safety. I get a lot of accolades. I just happened to be here as chairman of the committee at the right time to get it through. Anyone who knows anything about this issue knows Senator DURBIN was the Senator who got this going. I always wondered how many years ago. He said 16 years ago.

Again, there is perseverance, stick to it. When you know what is right and good for this country, do not give up and hang in there. Senator DURBIN hung in there for 16 long years. We finally got the bill done and passed. I think the President will be signing it into law some time before January 5.

A lot fewer people will get sick, a lot more families will be healthy, and our food will be safer because of the efforts of Senator DURBIN. I publicly thank him for all of his work on this bill.

TRIBUTE TO RETIRING SENATORS

EVAN BAYH

Mr. HARKIN. Mr. President, time and time I have come to the floor to give a few remarks about Senators who are retiring and leaving the Senate. They all contributed in their unique way one way or the other to the Senate. Now I find myself with two left about whom I want to comment on their way out of the Senate.

In the closing days of the 111th Congress, we are saying goodbye to a number of colleagues, including a veteran Member, much respected on both sides of the aisle. I speak of the Senator from Indiana, Mr. BAYH.

I listened with great interest to Senator BAYH's eloquent farewell remarks earlier this month. The Senator was also kind enough to have them typed up and sent to our offices.

Looking back on his 12 years in this body, he spoke about times of national crisis, including after the 9/11 attacks and during the financial meltdown of 2008. He talked of a time when Senators acted not as Democrats and Republicans but as patriots concerned of doing one thing: doing what is right for the American people. He said that these times of bipartisan action were with the Senate at its very best.

For more than two decades, Senator BAYH has embodied everything that is

good about this body: a passion for public service, a sincere desire to reach out across the aisle, a great talent for forging coalitions and bringing people together, and a willingness to work long hours to accomplish important things.

As we all know, EVAN is what we might call a ''son of the Senate.'' He is enormously proud to have been elected to the same seat his father Senator Birch Bayh held for two terms and who remains a great friend of mine after all these years. He has followed in his father's footsteps in fighting for quality public schools, student loans, retirement security, and giving every American access to quality, affordable health care.

In addition, he has been a leader in strengthening our Armed Forces and national security. I know that Senator BAYH takes special pride in leading the charge to provide our troops in Iraq and Afghanistan with much improved mine-resistant armored vehicles.

As he leaves this body, Senator BAYH is still a young man with many chapters yet to be written in his life and career. For more than a quarter century, he has devoted himself to public service, first as Indiana's secretary of state, then as an enormously successful two-term Governor of Indiana, and, of course, since 1999 as a Senator.

I have always been a big admirer of one of his signature accomplishments as Governor, which was passing legislation creating the 21st Century Scholars Program. It is a wonderful program. Thanks to his initiative, every child in Indiana who is eligible for the free lunch program in public schools, who graduates from high school, and signs a pledge not to experiment with illegal drugs is entitled—get this—is entitled to a full tuition scholarship at the Indiana public university of his or her choice.

Over the years, many thousands of Hoosiers of modest means have been able to attend college thanks to this remarkable law. That is what I call a great—I hope my friend does not mind me saying this—populist, progressive accomplishment. It speaks volumes about EVAN BAYH'S priorities and values throughout his 24 years in public service.

During his two terms in this body, Senator BAYH has always faithfully served the people of Indiana and the people of the United States. I hope and expect he will pursue new avenues of public service after he leaves the Senate because our country sorely needs public servants of his caliber, intelligence, and accomplishments.

I will miss the day-to-day friendships, the counsels, the interchanges we have had together in the Senate. I wish EVAN and his wonderful wife Susan and their twin sons, Beau and Nick, the very best in the years ahead.

ARLEN SPECTER

Mr. President, I also wish to pay a farewell to another long-time legislative partner, and that is Senator ARLEN SPECTER of Pennsylvania.

I listened with great interest to Senator SPECTER's farewell remarks yesterday. He decried the decline of bipartisan cooperation in this body. As he put it:

> In some quarters, compromising has become a dirty word. Politics is no longer the art of the possible when senators are intransigent in their positions.

During his remarkable 30 years in the Senate—he is the longest serving U.S. Senator in Pennsylvania's history—ARLEN SPECTER has been admired for his fierce independence and for his willingness to cross party lines in order to accomplish big and important things for this country.

Nowhere has this been more vividly on display than in the Labor, Health and Human Services Subcommittee of the Committee on Appropriations, on which Senator SPECTER and I are senior members. Before last year, when he returned to his roots as a Democrat, ARLEN was the senior Republican and I was the senior Democrat on that subcommittee. Since 1989, as the majority in the Senate has gone back and forth between the two parties, we alternated as either chair or ranking member. But the transitions were seamless as we passed the gavel back and forth because ARLEN and I forged an unshakable partnership.

That partnership has been grounded in our shared commitment to finding cures for diseases ranging from cancer to heart disease to Alzheimer's and in our determination to maintain the National Institutes of Health as the jewel in the crown of international biomedical research. Our proudest accomplishment was our collaboration in doubling funding for the National Institutes of Health over a 5-year period, between 1998 and 2003. Last year, we again collaborated in securing $10 billion for the National Institutes of Health in the Recovery Act, although I must be honest and give the senior Senator from Pennsylvania the lion's share of credit for that accomplishment.

I say without fear of contradiction that there has been no Member of Congress in the Senate or the House who has championed NIH as passionately and relentlessly and successfully as Senator ARLEN SPECTER. Indeed, at times, in my role when I was chair of the Appropriations Labor, Health and Human Services Subcommittee, I have had to remind ARLEN that there were other programs besides the NIH in our appropriations bill. In fairness, Senator SPECTER has also fought passionately to increase funding for public schools and to increase access to higher education, but there is no question that his great passion, his living legacy has been the National Institutes of Health and biomedical research. Today, the prowess and excellence of the National Institutes of Health is truly a living legacy to Senator SPECTER, and we have countless new medical cures and therapies because of Senator SPECTER's long and determined advocacy.

Mr. President, I will miss my good friend and colleague from Pennsylvania, who has been a tremendous ally for many years. As he departs the Senate, he can take enormous pride in 30 years of truly distinguished service to the people of Pennsylvania and the United States. I wish ARLEN and his wonderful wife Joan the very best in the years ahead.

With that, Mr. President, I yield the floor and wish the occupant of the chair the best of the holiday season and a happy New Year. We will see you when we come back to the next Congress.

I yield the floor.

RUSS FEINGOLD

Mrs. BOXER. Mr. President, I rise today to pay tribute to my colleague and friend, Senator RUSS FEINGOLD.

I have had the privilege of serving with Senator FEINGOLD since he and I were both elected to the U.S. Senate in 1992. Over the past 18 years, Senator FEINGOLD has been an independent, passionate advocate for his State and his Nation. He was consistently a voice of conscience in the Senate, never afraid to ask the tough questions or to speak out against policies he believed were flawed.

Over the years, Senator FEINGOLD has distinguished himself as a leading expert on foreign and domestic policy who is willing to work across party lines to get the job done, whether it was reforming our Nation's campaign finance laws or working to end the atrocities committed by Ugandan rebels in the Lord's Resistance Army.

I have had the privilege of sitting next to Senator FEINGOLD in the Senate Foreign Relations Committee. I have been proud to witness how, as the chair of the Subcommittee on African Affairs, he has led the Senate in recognizing and addressing many of Africa's unique issues and challenges. He was one of the first to speak out about the genocide in the Darfur region of Sudan. He has advocated for an end to the illicit mining of conflict minerals that support armed conflict in the Democratic Republic of Congo. And he has placed a spotlight on drug trafficking in West Africa, the threat of terrorism in Somalia, and the affects of global diseases such as malaria on African populations.

Senator FEINGOLD is a great reformer, taking the lead on campaign finance reform and on the Army Corps of Engineers.

Senator FEINGOLD has been such an incredible champion for human rights, and I am personally grateful for his work on women's rights, particularly his commitment to combating violence against women and girls worldwide.

His passion, expertise, and dedication to these issues are unmatched and will be greatly missed.

BYRON DORGAN

Mr. President, I rise today to pay tribute to my colleague and friend, Senator BYRON DORGAN.

It has been an honor to serve with Senator DORGAN since he and I were both elected to the U.S. Senate in 1992.

Nobody can get to the heart of a matter like BYRON DORGAN. He has an unbelievable ability to lay out both challenges and solutions with clarity. He is a populist in the best sense of the word, and our country is better for his service in this Chamber.

Senator DORGAN has always been a champion for the people of North Dakota, for our workers, and for rural Americans. For the last 18 years, he has devoted himself to supporting family farms and promoting economic development across our country.

Senator DORGAN has been a leader in the Senate in fighting to preserve jobs here in America and end tax breaks for companies that ship jobs overseas. No one has fought harder for the middle class.

He used his position as chairman of the Senate Energy and Water Appropriations Subcommittee to advance important projects and create jobs, and I will always be thankful for his support in our efforts to protect California communities from flooding.

As chairman of the Senate Committee on Indian Affairs, Senator DORGAN has worked tirelessly to improve health care and economic opportunities for Indians. He has helped streamline the bureaucracy of the Bureau of Indian Affairs. He developed the landmark Tribal Law and Order Act, which helped give tribal justice officials the tools they need to protect their communities. I was so proud to cosponsor that bill and so pleased that President Obama signed it into law this year.

He leaves a distinguished legacy and will be greatly missed by all of us.

ARLEN SPECTER

Mr. President, I rise to pay tribute to our friend and colleague, Senator ARLEN SPECTER.

Senator SPECTER has spent five terms serving the people of Pennsylvania here in Congress—longer than any other Pennsylvania Senator. All of us can take a lesson from his dedication and passion for fighting for the people of his State.

A member of the Judiciary Committee since he joined Congress, Senator SPECTER built on his background as an attorney and eventually assumed the chairmanship of the committee. His expertise on constitutional issues has long been admired by his colleagues.

Senator SPECTER was always a leader on issues relating to our National Institutes of Health, championing investment in scientific research to find lifesaving treatments and cures for a range of diseases. He understood firsthand how crucial such funding could be, having fought his own battle with cancer. When we passed the Recovery Act, it was Senator SPECTER who ensured that it would include significant investments in NIH. His efforts to help double NIH's budget have contributed to advances in treatments for Parkinson's, cancer, heart disease and Alzheimer's.

I am pleased to have had the opportunity to work closely with Senator SPECTER on the Senate Environment and Public Works Committee. He has been a thoughtful and constructive member committed to addressing climate change and fighting for clean energy jobs.

Senator SPECTER loves this institution, and he will be missed. He has left his mark, and I thank him for his decades of dedicated public service.

CHRIS DODD

Mr. President, I would like to ask my colleagues to join me today in recognize the extraordinary leadership and service of our friend, Senator CHRIS DODD.

Senator DODD has served the Senate with grace, intelligence, and compassion for three decades. The son of a U.S. Senator, he loves this institution and has done everything he could to preserve its best traditions. Senator DODD has always encouraged all of us to keep our disputes and differences from becoming personal.

He leaves behind an incredible legacy of accomplishments that have touched the lives of virtually all Americans.

I will never forget the leadership role he played in helping to pass health care reform last spring—a fitting tribute to his close friend Ted Kennedy, whose vision finally became a reality.

As chairman of the Committee on Banking, Housing, and Urban Affairs, Senator DODD led the effort to pass Wall Street reform legislation. He was a forceful advocate for holding banks accountable for their actions, and we could not have enacted this landmark accomplishment without his leadership.

Senator DODD has devoted his career in public service to making life better for our families and our children. I saw this firsthand as we worked together to ensure that our children have safe places to go after school. As chairman of the Senate Afterschool Caucus and the founder of the Senate's first Children's Caucus, Senator DODD worked hard to expand the Head Start program, to reform the No Child Left Behind Act, and to make college more affordable for students and their families.

In the face of Presidential vetoes, Senator DODD dedicated 8 years to enacting the Family and Medical Leave Act, which has helped ensure that 50 million Americans can care for their loved ones during difficult times without fearing for their jobs.

Senator DODD is a fluent Spanish speaker and has been the Senate's leading expert on Latin America. I have been proud to work closely with him to reform our Nation's drug certification laws.

His own years of service in the U.S. Peace Corps inspired Senator DODD to support and promote President Kennedy's call to service in this Chamber. In the Senate, he has helped expand and modernize the Peace Corps and worked to provide loan forgiveness to Peace Corps volunteers, teachers, and others who devote themselves to public service.

All of us in the Senate will greatly miss Senator DODD.

BLANCHE LINCOLN

Mr. President, I rise today to pay tribute to my colleague and friend, Senator BLANCHE LINCOLN.

Senator LINCOLN has spent her entire career serving the people of Arkansas, and she has been a passionate and effective leader for her State.

She has been an inspiration to so many women. Senator LINCOLN made history as the first woman to chair the Senate Agriculture, Nutrition, and Forestry Committee, and I will never forget how Senator LINCOLN led by example, showing us you could be a young mom in the Senate, dedicated to your children, while also being a strong advocate for your State.

She has been a leader in the Senate on child nutrition and has worked tirelessly to pass important legislation, including the Healthy, Hunger-Free Kids Act that was just signed into law by President Obama. The measure will help combat the nationwide epidemic of obesity by making sure our schoolchildren have access to healthy, nutritious meals.

As a cofounder of the Senate Hunger Caucus, Senator LINCOLN has played a crucial role in shedding light on a problem that affects so many, both at home and abroad.

Senator LINCOLN was never afraid to stand up for what she believed in. She showed her tenacity in fighting for greater transparency and accountability in derivatives markets during the debate over Wall Street reform.

She has been a fighter for her State and her legislative accomplishments will have a profound impact on the lives of so many children and communities across our country.

I want to thank her for her years of friendship and for her dedicated service here in the Senate. We will all miss her.

CHRISTOPHER DODD

Ms. SNOWE. Mr. President, I rise today to join my colleagues in paying tribute to Senator CHRISTOPHER DODD, a longtime public servant and fellow New Englander whose dedication to advancing the common good with common sense, independence, and a genuine desire to solve problems has served both his constituents of Connecticut as well as his country for 36 years. With trust, comity, and a love for the institution of the Senate, Senator DODD has for more than three decades contributed to creating a legislative environment where at crucial moments in the life of the greatest deliberative body in human history, the upper Chamber was able to work its will to the lasting benefit of the American people, and we could not be more grateful.

Indisputably, and as countless colleagues have noted, public service has

always been at the center of Senator DODD's life—literally, as he is the first son of Connecticut to follow his father into the U.S. Senate, and remarkably, for the past 30 years, Senator DODD has had the privilege of sitting at the same desk used by his father, Senator THOMAS DODD, during his 12 years in the Senate. CHRIS DODD'S longstanding devotion to the public arena has spanned from his three terms in the U.S. House—the last of which I was privileged to serve with him—to his five terms in the U.S. Senate. And Senator DODD earned the lasting gratitude of his constituents and admiration of his colleagues with his stalwart leadership in foreign policy, his vigorous and unwavering battle to enact the Family and Medical Leave Act, and his longstanding stewardship of our Nation's most precious resource—our children.

And on this last point, like many in this Chamber, I cannot begin to justly measure the depth and breadth of the legacy Senator DODD has forged in safeguarding the most vulnerable in our society. Consider for example the issue of child care. Time and again, Senator DODD has battled to ensure both the quality of child care in America as well as the funding for it, and as he keenly and presciently understood, in this matter, our Nation could not have one without the other.

An undeniable focus of Senator DODD's, child care has unquestionably become one of his crowning achievements and legislative hallmarks—and nowhere was his imprint on the issue greater than during the landmark welfare reform debate in 1995 and 1996. I well recall working with Senator DODD as we made the case that there was indeed a pivotal link between viable welfare reform and child care—that for families struggling to reduce their dependency on welfare—especially single parents—unaffordable, unavailable, or unreliable childcare was the chief barrier to steady employment, and one that could and should be lessened, if not eliminated.

That is why I was pleased to join with Senator DODD on our amendment to add $6 billion in child care funding to welfare reform legislation, especially at a time when that funding was very much imperiled. Arriving at a consensus required leaders from both parties to jettison their competing and hardened ideologies in favor not just of making dependable childcare more accessible, but in support of welfare reform that would effectively move more Americans from welfare to work. Senator DODD, as colleague after colleague can attest, heeded his own beliefs that ''you don't begin the debate with bipartisanship—you arrive there. And you can do so only when determined partisans create consensus.'' Because he never lost sight of the primacy of working across the aisle, we were victorious in including the funding we sought in the Senate-passed bill.

That bipartisan effort to garner concrete results designed to make a difference in the daily lives of the American people was not an isolated instance. Senator DODD and I collaborated on legislation to support campus-based child care for low income mothers trying to further their education, and we authored legislation to help states improve training in early childhood development to make improved child care more available to more people. With innate New England pragmatism and a desire for solutions, Senator DODD saw impediments to success that were impinging upon a segment of our society that if only reduced or removed would aid not only families striving to improve their lives, but a Nation seeking to help stem the tide of dependency.

Ultimately, what occupied Senator DODD's agenda was the active pursuit of an even better America. We didn't always agree on what that path should be, but where we did find common ground, as in child care, we cultivated it. That dynamic was at work recently as Senator DODD and I, as the former chair and current ranking member of the Senate Committee on Small Business and Entrepreneurship, collaborated to help the economic engines and catalysts of our economy—America's small businesses, the very enterprises that will lead us out of recession and into recovery.

During the consideration of what would become The Dodd-Frank Wall Street Reform and Consumer Protection Act, I truly appreciated Senator DODD's perseverance in including a provision I authored allowing small businesses to raise concerns over burdensome regulations through small business review panels within the Consumer Financial Protection Bureau. Senator DODD and I also worked to reduce the regulatory compliance burden for small banks by striking a provision of the bill which would have required these lending institutions to report their transactions to the Federal Government down to each individual ATM.

This kind of rapport was emblematic of how Senator DODD viewed good governance. In his valedictory address on the floor of the Senate, he observed that ''in my three decades here, I cannot recall a single Senate colleague with whom I could not work.'' Indeed, Senator DODD always saw adversaries as potential allies—and foes as unwon friends.

From the days of his youth, Senator DODD grew up steeped in the tradition of and respect for the Senate—and an abiding admiration for this venerable institution that runs at its own pace and by its own rules. Instead of exhibiting rancor and a burning desire to win at all costs, Senator DODD sought instead to build relationships and by doing so, strengthened his capacity for legislating and contributed mightily to the advancement of this esteemed Chamber. Legendary American poet and son of Maine, Henry Wadsworth Longfellow, once wrote that ''if you would hit the mark, you must aim a little above it.'' CHRIS DODD has always aimed high—and met his target—leaving a legacy of enormous accomplishment to his constituents in Connecticut and to the American people.

In closing, let me just extend my personal appreciation to his wife Jackie and their daughters Grace and Christina for sharing CHRISTOPHER DODD with us

JUDD GREGG

Mr. President, I rise today to join my colleagues in paying a well-earned tribute to Senator JUDD GREGG, a fellow New Englander and one of New Hampshire's much-admired icons of public service over the last three decades.

Senator GREGG has been immersed in public service his entire life, beginning with his father's election as Governor of New Hampshire in 1952 when JUDD was only 5 years old. And through the years, he has amassed a record of leadership at every level of government that is truly remarkable. It comes as no surprise that JUDD is the first public servant from the Granite State ever to realize the political trifecta of being elected to the three offices of Congressman, Governor, and Senator. Serving others goes to the very core of JUDD GREGG's persona and DNA. It always has and always will.

And let me just say, at every step along the way, it has been a privilege for me to witness Senator GREGG's impressive trajectory in public life firsthand. In fact, it was during JUDD's years in the U.S. House of Representatives, where my husband, Jock McKernan, and I first got to know him as well as his wonderful wife Kathy. And that friendship grew further during JUDD's time as Governor as both he and Jock were chief executives of their respective States during the same period.

And having served with JUDD for nearly his entire tenure in the Senate, I have been proud to work side by side with an individual whose organizing principle behind public service has always been driven by common sense, pragmatism, and the imperative to forge solutions across the aisle. Time and again, JUDD has sought to bridge the political divide to garner results, whether by tackling our Nation's fiscal challenges, promoting land conservation, or most notably, co-authoring the No Child Left Behind Act of 2001 with the late Senator Edward Kennedy.

Indeed, Senator GREGG's rigorous intellect, financial acumen, and budgetary expertise have earned him the respect and admiration of his Senate colleagues from both parties and made him one of the Nation's most well-regarded, leading champions of fiscal discipline and accountability, and one of the most knowledgeable voices and authorities in addressing our Nation's deficits and debt.

In fact, the bipartisan National Commission on Fiscal Responsibility and Reform, created by President Obama, is modeled after legislation first introduced by Senator GREGG, the former chair and current ranking member of

the Senate Budget Committee, and the current Chair, Senator KENT CONRAD of North Dakota—both of whom are commissioners. What a fitting coda for one of this generation's stalwart guardians of our Nation's budget.

And Senator GREGG's service could not be more emblematic of his overall approach to public service which has always hewed to principle with a genuine desire to forge solutions across the aisle. No wonder that earlier this month, Washington Post columnist Ruth Marcus wrote that in ''both parties, there are too few GREGGs, and too many of them . . . are leaving public office.'' I couldn't agree more!

Just as Senator GREGG has rightly earned national acclaim as a fiscal steward and sentinel on behalf of the American taxpayer, the heart of his leadership has always remained with his beloved Granite State as well as our region of New England. I well recall the ironclad solidarity our two delegations have shared, particularly in defending against efforts to close the Portsmouth Naval Shipyard. Through each of the five Base Realignment and Closure, BRAC, rounds from 1988 through 2005, we have left no stone unturned to champion the cause of the U.S. Navy's oldest and best shipyard—and to ensure that the BRAC Commission recognized the legendary work-ethic and world-class craftsmanship of a workforce that is second to none.

Former Senate majority and minority leader, Senator Robert Dole, with whom Senator GREGG and I both served, once observed ''as long as there are only 3 to 4 people on the floor, the country is in good hands. It's only when you have 50 to 60 in the Senate that you want to be concerned.'' When JUDD GREGG was on the floor the people of New Hampshire and, indeed, the Nation knew that our country was in tremendously capable and conscientious hands, and we could not be more grateful!

In thanking Senator GREGG for his immeasurable contributions to this storied chamber, I know I join all of my colleagues in wishing him and his beloved wife Kathy, Godspeed, as they embark on the well-earned, next chapter of their lives.

GEORGE VOINOVICH

Mr. President, I rise today to join in paying tribute to my longtime good friend and colleague, Senator GEORGE VOINOVICH of Ohio. In the U.S. Constitution, our Founding Fathers made it clear that there is no one clear path, background, or station in life that leads to serving in the U.S. Senate. There is an age requirement and a residency stipulation and no more. That said, if ever there were a job description for being a Senator, it occurs to me that a model example we should consider is that of Senator GEORGE VOINOVICH.

Senator VOINOVICH's depth and breadth of wisdom, knowledge, and experience about making government work at all levels which he has harnessed throughout his sterling, four decade trajectory in public life recall what James Madison wrote in The Federalist, No. 62 in advocating for a higher age requirement for Senators than members of the House. Madison postulated that the deliberative disposition of the Senate required a ''greater extent of information and stability of character.'' I don't think it's too far of a stretch to say that James Madison must have had a Senator like GEORGE VOINOVICH in mind when making this case.

Before Senator VOINOVICH even stepped onto the floor of the U.S. Senate he had already been Governor of Ohio, mayor of Cleveland, Lieutenant Governor of Ohio, county commissioner, auditor, and a member of the Ohio House of Representatives. With a wealth of insights to draw upon through many years of public service, GEORGE has always been a force with whom to be reckoned, someone whose viewpoint and counsel are sought, and whose example is worthy of being emulated many, many times over.

My husband Jock, former Governor of Maine, and I first got to know Senator VOINOVICH and his wonderful wife of nearly 50 years, Janet, in the 1990s when Jock and GEORGE were both serving as Governor of their respective States and active in the National Governors Association. In Ohio's State capital of Columbus, GEORGE was building on his enormous success as Mayor of Cleveland where he inherited a stagnant economy, rejuvenated it through fiscal discipline and acumen and public-private partnerships, and forged a three-time All-America City winner in the 1980s.

GEORGE made similar, remarkable strides as Governor, where, under his watch, unemployment hit a 25-year low and 600,000 new jobs were created. Many accolades were bestowed upon GEORGE for his accomplishments at the State level, and they were all well-earned to say the least. In fact, he is still the only individual to serve as both chairman of the National Governors Association and president of the National League of Cities.

There are many laudatory characterizations of Senator VOINOVICH that have already been expressed by my colleagues, and there are certainly some that come to mind, especially as a highly regarded U.S. Senator—thoughtful, independent, principled, rigorous, courageous, and pragmatic. With GEORGE, you always knew where he stood on an issue and frankly where you stood with him. In an institution whose very foundation is built upon trust and forging relationships, GEORGE was someone you could count on time and time again.

And to say that Senator VOINOVICH was a workhorse in this Chamber from day one is an understatement to be sure. His word is as good as gold—and as they say, you can take it to the bank. If he shook your hand on a deal, that was all that was required. The fact is, they don't make enough legislators or public servants like Senator VOINOVICH anymore. Like the Ohio State flag, the only one in the U.S. not shaped like a rectangle, GEORGE has been and will always be . . . one of a kind.

I can tell this Chamber from first-hand experience, there was no one you would rather be in the trenches with in the Senate, especially when the stakes were high, than GEORGE. I will never forget—and I know GEORGE won't either—how we stood side by side as stewards of fiscal accountability during the tax cut debate in 2003. We were certain that reducing taxes and hewing to our budget concerns did not have to be mutually exclusive—that we could champion billions in tax cuts without jeopardizing our Nation's fiscal future by proposing offsets.

The fact is, once Senator VOINOVICH determined to chart a particular course, he was not easily dissuaded—and rightfully earned a reputation for being tireless and relentless in his pursuits. His moral fiber, character, and integrity can be traced back to being the grandson of Serbian and Slovenian immigrants who crossed the Atlantic from Croatia at the turn of the century. As a proud Greek-American whose parents emigrated from Greece, I see in GEORGE the same stalwart work ethic so prevalent in my own roots and culture growing up in Maine.

Senator VOINOVICH once said that ''doing a good job at running your government is the best politics,'' and that ''people just want you to get the job done.'' But for him, these weren't platitudes worthy of a government class, they have been truly organizing tenets that have shaped a distinguished 40–year tenure of serving the common good for Ohioans and the Nation.

In the Senate, when others refused to reach across the aisle, Senator VOINOVICH understood that doing so made the system work, especially for those who elected us in the first place—the American people. When political scorekeeping and posturing have ruled the day, Senator VOINOVICH has managed to transcend the short-term efforts to jockey for position in favor of immersing himself in the substance of the policy with the intention of championing it or opposing it based on the facts, not political sway or the temper of the times. The legacy of GEORGE's clear voice of reason and brave vision in this body will extend into the next Congress and for Congresses to come. My only regret is that the Senate could use more GEORGE VOINOVICHs, not fewer.

For all of his dedicated public service to his Buckeye State and this great land, undoubtedly, GEORGE will tell you that his greatest achievement is his marriage of 39 years to his beloved wife Janet, their three children, and eight grandchildren. I wish them all the best.

BLANCHE LINCOLN

Mr. President, I rise today to join my colleagues in paying tribute to Senator

BLANCHE LINCOLN, one of the finest public servants I have had the pleasure not only to know, but to work with during our one term in the U.S. House together and her distinguished 11-year tenure in the Senate.

A seventh-generation Arkansan, Senator LINCOLN has always been firmly rooted in the values and the people of her great State. Their concerns have been her battles—their hopes have been her cause. Her State's bedrock values of family and faith have always been at the center of BLANCHE's life as a daughter, wife, mother, church member, and Congresswoman. She has always been as authentic as they come, warm as she is determined, gracious as she is resolute, and Arkansans wouldn't have it any other way.

BLANCHE understood the inherent human element and dimensions of public service as well as anyone—that you pursued elective office not for personal gain, but in order to make a difference on behalf of others, especially for rural America. For Senator LINCOLN, the phrase ''The People Rule'' was more than her great State's cherished motto, it was an organizing principle and a clarion call which inspired her to serve.

The youngest woman ever elected to the Senate and the first woman to serve as chairman of the Senate Agriculture, Nutrition, and Forestry Committee in its 184 years of existence, Senator LINCOLN was making her mark from the first time she entered the august Chamber of the U.S. Senate. From the beginning, she stood upon the mightiest of shoulders, Arkansas's legendary Hattie Caraway, the first woman to win a statewide U.S. Senate race in Arkansas and the first woman to chair a U.S. Senate committee. How fitting it is that Senator LINCOLN paid homage to her predecessor by using the same desk on the Senate floor that Senator Caraway used 60 years ago.

I was privileged to work with Senator LINCOLN for her entire time and mine as well on the venerable Senate Finance Committee where we were kindred spirits and compatriots from day one. In fact, our very first year on the committee we forged an historic, bipartisan alliance to make the childcare tax credit refundable for the first time ever, and the bond we formed during that undertaking only increased as we shepherded other dependent care issues through the years to help give families the resources to be stronger and find empowerment through work.

Senator LINCOLN and I, as the former chair and current ranking member of the Senate Committee on Small Business and Entrepreneurship, also joined forces on the Small Business Health Options Program, or the so-called SHOP Act, to increase the number of insurers available to small businesses, so that these engines of our economy could benefit from greater competition. On issue after issue, I valued our collaborations, our mutual respect, and our common desire to achieve results and jettison the partisan bickering that impedes not only progress, but our obligation to do the will of the American people.

Central to that collegiality has been our great tradition as women in the Senate of getting together once a month for dinner, and there is no question that Senator LINCOLN's absence will be keenly felt. Appropriately, we described one of our dinners in the prologue to the book we labored on together in the 1990s, entitled ''Nine and Counting,'' to demonstrate the progress women had made in the upper Chamber. In it, BLANCHE is described as ''ebullient, energetic, and unpretentious—she is the picture of representative government.'' That is the BLANCHE LINCOLN I know and the BLANCHE LINCOLN I will miss.

Like all of the women I have had the honor of serving with on both sides of the aisle, BLANCHE has been a bulwark against the all-too-prevalent dynamic confronting the American political system—the ongoing erosion of bipartisanship, cooperation, and civility. She has helped bridge the partisan divide as much as anyone, and has acted time and again as a catalyst for cultivating common ground in order to advance the common good.

The Arkansas State flag contains diamond shapes in its center as Arkansas is the only State where diamonds have been discovered. It has been the pinnacle of generosity for Arkansans to share one of their gems here in our Nation's Capital in the form of Senator BLANCHE LINCOLN. We also thank her husband Dr. Steve Lincoln and their twin boys, Reece and Bennett, for doing the same.

EVAN BAYH

Mr. President, today I wish to join in paying a well-deserved tribute to my good friend and colleague, Senator EVAN BAYH of Indiana. When it comes to reflecting on his tremendous experience and influence in this esteemed Chamber for the past 12 years, the simple truth is that our Nation and our government would be exponentially improved by having more like EVAN BAYH serving in the United States Senate.

A proud native of the Hoosier State—as well as a son of the legendary former Senator Birch Bayh—Senator EVAN BAYH is a man of unwavering principle and conviction, who has been a stalwart legislator and unparalleled guardian of the first branch of government over his two terms serving the people of Indiana. Born in Shirkieville, educated at Indiana University, and a graduate of the University of Virginia Law School, Senator BAYH went on to clerk for a Federal court judge, eventually being elected as Indiana's secretary of state in 1986.

Yet even before Senator BAYH stepped onto the floor of the United States Senate he had already served two terms as Governor of Indiana, beginning in 1988. In fact, that is where I first got to know him as both he and my husband, John McKernan, were chief executives of their respective States during much of that same period. The depth and breadth of EVAN's insight and experience that was forged during his years as Governor would become truly indispensable as a United States Senator.

Having served side-by-side with EVAN for his entire tenure—including this Congress as fellow members of the Senate Select Committee on Intelligence and the Senate Committee on Small Business and Entrepreneurship, where I serve as ranking member—I can attest firsthand to his intellect, independence, and integrity that will truly leave an indelible mark on this institution and this Nation. EVAN has also been a next-door neighbor in my hallway in the Russell Senate Building. So I will profoundly miss seeing him not only in the Senate, but also simply walking down the hall outside my office.

Throughout his storied career, Senator BAYH has reached across the aisle to find consensus on legislation to advance both Indiana and the Nation. From focusing on job growth and fighting for America's small businesses to national security and trade, EVAN has been a leader whose achievements truly leave an indelible mark.

Indeed, I was pleased to work with Senator BAYH on legislation in 2007 that linked the troop surge in Iraq to meaningful consequences and telegraphed to the Iraqi Government that they had to meet the benchmarks they themselves had set. And just this year, Senator BAYH and I worked with a number of our colleagues in the Senate to crack down on unfair currency manipulations in China—ensuring our government is equipped with the tools to adequately address inequities and provide consequences for countries that violate our global trade rules by holding down the value of their currency.

Earlier, in 2001, Senator BAYH and I introduced a bipartisan resolution in the Senate, as well as a subsequent amendment on the Senate floor, to ensure that decisions on the use of the budget surpluses that were projected at the time—whether for tax cuts or for spending—should be linked to the surpluses actually realized. Simply put, the idea, based on a proposal first outlined by then-Federal Reserve Chairman Alan Greenspan, was that long-term tax and spending plans should include a kind of ''trigger'' mechanism that limits the surplus-reducing impact of those proposals if budget targets weren't achieved, such as specific levels of debt reduction.

We believed such a trigger would provide a strong incentive for Congress to act responsibly in the future allocation of any surpluses, while also serving as a ''backstop'' should estimates prove too optimistic. As I said at the time, we should have been utilizing those surpluses as a window of opportunity to address our most pressing domestic issues, such as strengthening Social

Security and Medicare. And frankly, how prescient that trigger mechanism proved to be—just imagine where we might be today if it had passed nearly 10 years ago.

In multiple facets, Senator BAYH has been an esteemed colleague and friend in our mutual cause to revitalize and advance the political center—in our concerted effort to answer the challenges facing our Nation by producing results, not rancor, and accord instead of acrimony. His departure not only diminishes the Senate, but is also a loss for the country—because we require more voices seeking to craft compromise and consensus to forge solutions, not fewer.

I have long argued that the legislative stalemate and political quagmire that has gripped much of this Congress has been to the detriment of our country—especially at a time when our Nation faces a number of challenges, not the least of which is a struggling economy that has caused far too many Americans to lose their jobs and their paychecks. In February, Senator BAYH wrote an op-ed for the New York Times in which he said, ''The most ideologically devoted elements in both parties must accept that not every compromise is a sign of betrayal or an indication of moral lassitude. When too many of our citizens take an all-or-nothing approach, we should not be surprised when nothing is the result.'' I could not agree more—and Senator BAYH's advocacy of moderation and reason in this body will truly be missed.

President Theodore Roosevelt once said that ''far and away the best prize that life has to offer is the chance to work hard at work worth doing.'' Well, if ever there were a Senator who epitomizes that sentiment, it is Senator BAYH as he has given his very best to make an already great Nation greater still. I wish EVAN, his wife, Susan, and their two sons, Beau and Nick, all the best for the future.

JUDD GREGG

Mr. COCHRAN. Mr. President, it has been a great pleasure and honor to serve in this body with JUDD GREGG. He and his wife Kathy have enriched our lives with their friendship and their contributions to the work and responsibilities of the U.S. Senate.

JUDD's leadership on the Budget and Appropriations Committees have been especially important and worthy of high praise.

His sense of humor has helped make our service in the Senate an enjoyable experience.

I wish for him and his family all the best in the years ahead.

SAM BROWNBACK

Mr. ROBERTS. Mr. President, I rise today to honor the service of my friend and colleague SAM BROWNBACK. SAM was elected to the House of Representatives in 1994 during the Republican Revolution and was subsequently elected to the Senate 2 years later when former majority leader Bob Dole made his bid for the White House.

It has been both a privilege and a pleasure serving alongside SAM during these past 16 years. All of us who seek public service want to make a difference, and most certainly, SAM BROWNBACK has done that. In these endeavors I have enjoyed working with SAM in achieving some note worthy accomplishments for our State of Kansas. As I reflect upon our mutual efforts, it is hard to figure out who was driving the stage and who was riding shotgun. Simply put, it has been a team effort, and I have been both humbled and proud to work with my colleague who has provided unique and respected leadership. SAM's record speaks for itself: bringing the Big Red One back home to Fort Riley, KS, where it started and now belongs; bringing the National Bio- and Agro-Defense Facility, NBAF, to Manhattan, KS; ensuring fair treatment of the general aviation industry in FAA bills; and working together to rebuild Greensburg, KS, after 95 percent of the community was literally blown away by an EF5 tornado.

But beyond our work together on State specific issues, it is SAM's Federal legislative initiatives that I think will have the longest impact on the Senate and the lives of so many people, pot only within Kansas and our Nation but, indeed, around the world.

Since the late 1970s, the term ''compassionate conservative'' has been tossed around quite a bit to describe a philosophy—a philosophy that states by applying conservative ideals, our government can best improve the welfare of our society. I think many of my colleagues would agree that if anyone in public service over the past 30 years embodies this philosophy, it would be SAM BROWNBACK.

What is unique about SAM and his approach to politics these past 16 years is that his ideas went beyond words and rhetoric. The SAM BROWNBACK approach was simple but effective. He applied his beliefs to action, reflected by the many legislative accomplishments he championed during his tenure in the Senate.

SAM is a big believer in forgiveness and second chances. How to put that belief into action? SAM introduced a bill that really shows his heart for those in society who many times are not given an opportunity to make amends: the Second Chance Act.

Signed into law during the Bush administration, this act created a grant program for State and local governments to fund job training and family mentoring programs to help reintegrate past offenders as they are granted release back into society.

But SAM's legislative victories did not focus solely on domestic issues. SAM has a great love for the continent of Africa.

Serving on the Senate Foreign Relations Committee, he traveled to Africa on multiple occasions to gain a better understanding of how he could help provide relief to those most vulnerable. His experiences led him to champion the Darfur Peace and Accountability Act of 2006. Enacted that same year, this law created sanctions against individuals and groups responsible for the terrible crime of genocide in Darfur, while establishing measures to protect civilians and humanitarian efforts within the borders of Sudan.

The more SAM did, the more he felt called to do, and no one did more for the protection of victims of human trafficking than SAM. In 2000, he helped enact the Trafficking Victims Protection Act. This law created criminal punishments for individuals caught in the United States operating as traffickers. It established an annual reporting mechanism to help track individuals engaged in sex trafficking and created a new immigration status for victims of sex trafficking.

Lastly, I believe SAM's prominence during his time in the Senate had a great deal to do with his willingness to work across party lines on issues where he could seek and find common passion and ground.

The legislative item I think will leave the largest impact on many of us in the Senate is the bill upon which he worked tirelessly with the late Senator Ted Kennedy.

Signed into law by President Bush, the Prenatally and Postnatally Diagnosed Conditions Act provides those families with children diagnosed with Down Syndrome the support services and networks they need to help them deal with the unique challenges they face. Put another way, what better legislation to help protect the lives of those in our Nation uniquely challenged but who deserve every right to the same opportunities we all enjoy everyday.

I could easily and proudly recount many more of SAM's achievements during his time in the Senate, but I would do so in danger of SAM saying ''enough'' and giving me ''the hook.'' I have often said that the high road of humility is not often bothered by heavy traffic in Washington, but in SAM BROWNBACK, we have indeed enjoyed the friendship of a humble man.

In closing, I leave my colleagues with one of Senator BROWNBACK's favorite quotes that I think sums up the man that SAM is and the love he has for all people, regardless of their nationality or place in society.

SAM likes to say: '' I am pro-life and whole-life. Applying this belief to the child in the womb and to the child in Darfur. It includes the man in prison and the woman in poverty. It does not fail to cherish the child with Down syndrome or stand for the inherent dignity of the immigrant.''

SAM, I remember the first campaign rally we attended together. The featured guest speaker, Senator Phil Gramm of Texas, introduced me as one who made significant changes in the House of Representatives and then introduced SAM as: ''One who not only wants to change things, but to make the right changes.''

SAM, you have done just that and it has been an honor to serve with you over these past 16 years. I thank you for your courtesy, cooperation, leadership, example and your friendship and support. As you head west, my friend, to lead our beloved State of Kansas, I look forward to continued cooperation and success. The people of Kansas are in good hands. God bless.

ARLEN SPECTER

Mr. CASEY. Mr. President, when I came to the Senate in 2007 as a Senator-elect, one of the first things I did was to go see Senator SPECTER. He asked me at the time to go to lunch, and from the moment that I arrived in the Senate, he made it very clear to me, not only did the people of Pennsylvania expect, but he expected as well that we work together. From the beginning of his service here in the United States Senate, way back when he was elected in 1980, all the way up to the present moment, he has been a Senator who has focused on building bipartisan relationships and, of course, focusing on Pennsylvania priorities.

I have been honored to have worked with him on so many Pennsylvania priorities, whether it was veterans or workers, whether it was dairy farmers or the economy of Pennsylvania, or whether it was our soldiers, or our children, or our families. He has been a champion for our state, and he has shown younger Senators the way to work together in the interest of our state and our country. That bipartisanship wasn't just a sentiment. He is a legislator who sought compromise that led to results in a Senate often divided by partisanship.

His record is long, so I will only highlight a few areas.

He helped to lead the effort to dramatically increase funding for the National Institutes of Health, that great generator of discoveries that cure diseases and create jobs and hope for people often without hope because of a disease or a malady of one kind or another.

His experience working on a farm as a boy, Kansas not in Pennsylvania, helped him to understand and work on problems affecting Pennsylvania agriculture and farm families.

He stood up for Pennsylvania industry and workers against subsidized or dumped products that hurt Pennsylvania's steel industry.

He fought to bring Federal funding back to Pennsylvania to create jobs, build infrastructure and invest in local communities.

No Senator in the history of the Commonwealth has served longer than Senator SPECTER. In fact, the Senator that he outdistanced in a sense, in terms of service, was only elected by the people twice after several terms elected by the state legislature. Senator SPECTER was elected by the people of Pennsylvania five times, but it is the life in those Senate years, the contribution to our Commonwealth and our country in those 30 years that really matter. His impact will be felt for generations, not just decades, but for generations.

There was a history book of our State that came out in the year 2002. It was a series of stories, essays and chapters on the history of Pennsylvania, and it is a fascinating review of the State's history. The foreword of that publication, that book, was written by Brent D. Glass, at the time the executive director of the Pennsylvania Historical Museum Commission. He wrote this in March 2002. It is a long foreword which I won't read, but he wrote in the early part of this foreword the following, ''One way to understand the meaning of Pennsylvania's past is to examine certain places around the state that are recognized for their significance to the entire nation.'' Then he lists and describes in detail significant places in Pennsylvania that have a connection to our history, whether it's the Liberty Bell or the battlefield at Gettysburg, whether it's the farms in our Amish communities or whether it's some other place of historic significance.

I have no doubt whatsoever that if the same history were recounted about the people of Pennsylvania, the people who moved Pennsylvania forward, the people who in addition to moving our State forward had an impact on the Nation; if we had to make a list of Pennsylvanians who made such contributions; whether it would be William Penn, Benjamin Franklin, you can fill in the blanks from there, I have no doubt that that list would include Senator ARLEN SPECTER, a son of Kansas who made Pennsylvania his home, a son of Kansas who fought every day for the people of Pennsylvania.

So it is the work and the achievements and the passion and the results in those years in the Senate that will put him on a very short list of those who contributed so much to our Commonwealth that we love and to our country that we cherish.

So for all that and for so many other reasons, I, as a resident of Pennsylvania and a citizen of the United States, but as a Senator, want to express my gratitude to Senator ARLEN SPECTER for his 30 years of service, but especially for what those 30 years meant to the people of Pennsylvania. Thank you, Senator SPECTER.

Mrs. HUTCHISON. Mr. President, I would like to take a few minutes to pay tribute to the 16 Senators who will be departing this body at the end of the year.

I am grateful for the opportunity I have had to serve alongside each of these Senators as colleagues and as friends. All served their States with distinction and gave their constituents strong voices in the world's greatest deliberative body. Senators EVAN BAYH, ROBERT BENNETT, KIT BOND, SAM BROWNBACK, JIM BUNNING, Roland Burris, CHRIS DODD, BYRON DORGAN, RUSS FEINGOLD, Carte Goodwin, JUDD GREGG, TED KAUFMAN, GEORGE LEMIEUX, BLANCHE LINCOLN, ARLEN SPECTER, and GEORGE VOINOVICH each left an indelible mark on the Senate, and I wish them well as they take on new challenges and opportunities into the future.

I would like to speak briefly about a few of the Senators I knew best and served with in committees to recognize their contributions and accomplishments and share my fond memories of them and the legacies they will leave behind.

BOB BENNETT

For nearly two decades, Senator BOB BENNETT has honorably served the people of Utah.

His career in the U.S. Senate has been marked by his commonsense solutions to many of the most pressing issues facing our country.

Before serving in the Senate, BOB was a successful entrepreneur as the CEO of Franklin International Institute. Under BENNETT'S leadership, the business grew from 4 employees to more than 1,000 and was listed on the New York Stock Exchange.

BOB brought his past experiences running a successful company with him to the Senate. His business sense was certainly an asset that informed his decisions as a U.S. Senator and made him an effective advocate for businesses, large and small, who keep our economy strong. Being a former businessowner myself, I valued his pragmatic perspective and ability to get things done.

As a senior member of the Senate Banking Committee and a member of the distinguished Joint Economic Committee, BOB has been a leader in many national economic policy decisions.

In addition, while serving as the ranking republican on the Senate Appropriations Subcommittee on Energy and Water, he has worked to address the critical funding needs our country faces on a wide range of energy and water related issues.

I am proud to have served with BOB for so many years, and his leadership and kind manner will be sorely missed in the Senate.

JIM BUNNING

I wish Senator JIM BUNNING well as he departs the Senate. Much of his legacy can be defined by his competitive spirit and strong work ethic. These attributes have been evident throughout his many successes in life, first in his career as a Hall of Fame baseball player and then later as a public servant, representing the people of Kentucky. Being an avid sports fan myself, I hold deep admiration for those who can play at the highest levels of competitive sports and later bring that drive to the Senate!

Following his highly successful professional baseball career for 17 years, JIM decided he wanted to give back to his community. In 1977, he ran for city council and then later ran for the Kentucky State Senate eventually becoming the Republican leader.

In 1986, JIM was elected to the U.S. House of Representatives for the 4th

District of Kentucky, where he served for 12 years before being elected to the U.S. Senate in 1998.

During JIM's tenure in Congress, he has established himself as an expert and defender of social security, fighting hard to protect social security for current and future generations.

His hard work and devotion will be missed by the people of Kentucky, whom I know are grateful for his many years of service.

KIT BOND

KIT BOND has a long and distinguished history of service to the people of Missouri. As one of the longest serving Members in the U.S. Senate and a former two-term Governor, his life's work has been dedicated to the State of Missouri.

In the Senate, KIT has been a respected leader on many issues, such as national security, transportation, and global economic competiveness. While serving as the vice chairman on the Senate Select Intelligence Committee, he has worked hard to strengthen national security through supporting the U.S. military and reforming the Nation's intelligence community. And as the leader of the Senate National Guard Caucus, no one has done more to support the role of the National Guard in our defense.

KIT and I have worked on many issues together during our time in the Senate. In particular, last year when Democratic lawmakers tried to push cap-and-trade bills through Congress, KIT and I released the report, ''Climate Change Legislation: A $3.6 Trillion Gas Tax.''

Our joint report revealed how climate legislation would result in a massive new national gas tax on American families, farmers, workers and truckers—by increasing the price of gasoline, diesel, and jet fuel.

It has been my pleasure to serve with Senator BOND. His office has been next to mine for 12 years and it will not be the same without that familiar cigar aroma lingering in the second floor halls of Russell. Without a doubt, he will be missed by his colleagues in the Senate and his constituents in Missouri.

SAM BROWNBACK

While Senator SAM BROWNBACK will certainly be missed by the Senate, the people of Kansas will continue to benefit from his leadership, as he serves as their newly-elected Governor.

Prior to being elected to public office, SAM's professional experiences include working as a radio broadcaster, attorney, teacher, and administrator.

From these varied professional experiences he brought with him a unique and dynamic perspective to the U.S. Senate.

Through his leadership as the ranking member on the Joint Economic Committee, ranking member of the Appropriations Subcommittee on Agriculture, and ranking member of the Energy and Natural Resource Subcommittee on Water and Power, SAM established himself as a leader on a wide range of issues.

During his tenure in the Senate, he has supported aviation research and expanded global aviation markets. Through these efforts, he has effectively spurred economic growth and strengthened the U.S. military.

Some of SAM's most distinguishing characteristics are his personal integrity and his commitment to his Catholic faith. These principles came through in much of what he did in the Senate. I will always appreciate his passion and his work to translate his beliefs into his actions as a U.S. Senator.

I am confident Senator BROWNBACK will continue to serve the people of Kansas with the same character and dedication in his new role as governor.

CHRIS DODD

Senator CHRIS DODD departs the Senate after nearly three decades faithfully representing the people of Connecticut.

From his service in the Peace Corps, the U.S. Army National Guard and Reserves as well as his many years in the U.S. Senate, Senator DODD's commitment to public service and love for his country have been evident throughout his life.

CHRIS was a leader in the Senate, serving as the chairman of the Banking, Housing and Urban Affairs Committee, chairman of the Foreign Relations Subcommittee on Western Hemisphere, Peace Corps, and Narcotics, and chairman of its Children and Families Subcommittee.

Although we had our differences on various policy issues, I always appreciated his willingness to put partisanship aside to reach consensus when possible in order to improve legislation. For instance, earlier this year when working on the financial reform bill, despite my public opposition to the legislation, CHRIS worked with me to incorporate my amendments in the final version of the bill. I ultimately voted against the bill, but I am grateful for the efforts he made to include my amendments.

Today we bid him farewell after 29 years of tireless service in the U.S. Senate.

BYRON DORGAN

Today we say goodbye to Senator BYRON DORGAN after 18 years in the Senate, serving the State of North Dakota.

First elected to Congress in 1980, DORGAN has devoted his career to serving North Dakota and fighting for the interests of rural America.

After serving six terms in the U.S. House of Representatives, BYRON was elected to the U.S. Senate in 1992.

I have had the pleasure to serve with Senator DORGAN on the Senate Commerce Committee. Last summer, we joined together with several of our colleagues in the Senate to introduce bipartisan legislation that reauthorized the Federal Aviation Administration, FAA.

The legislation accelerated the modernization of the Nation's air traffic control, ATC system, addressed critical safety concerns in the national airspace system, NAS, and improved rural community access to air service.

I appreciated BYRON's willingness to champion good ideas put forward by members from either side of the aisle. By focusing on issues where consensus could be achieved, he helped to move the debate forward on important issues and solve problems.

Senator DORGAN leaves the Senate with my best wishes and respect.

JUDD GREGG

As a leading voice for fiscal responsibility, Senator JUDD GREGG will be deeply missed in the Senate.

Throughout his long and distinguished career, with unparalleled commitment to fiscal discipline, Senator GREGG worked to address many pressing issues.

Senator GREGG is a well known budget expert and national leader on the most critical issues facing our country in recent years, notably health care, economic issues, and financial regulation.

His efforts to address the looming entitlement crisis, the rising cost of health care, and the inefficient and complex tax system are commendable and serve as an example to all elected officials.

In the Senate, Senator GREGG has also focused his efforts on helping the U.S. maintain its position as the leading destination for capital and investment in the world.

I appreciate the job Senator GREGG has done in his position as the former chairman and current ranking member of the Budget Committee.

In 2006, JUDD sponsored an amendment that strengthened border security by providing resources to integrate biometric databases as well as construction of new stations and check points and tactical infrastructure for immigration and customs enforcement.

Unlike other similar proposals at the time, his amendment was offset and did not add to the deficit.

I will miss working with him in this Chamber, and I will miss his friendship and support on the issues that matter most to America.

In conclusion, the departing Senators' contributions, their dedicated service, and the issues they championed will be remembered long after their final days in the Senate.

I believe I can speak for my fellow Senators when I say that we will all miss our departing friends.

Ms. MURKOWSKI. Mr. President, when the 111th Congress draws to a close, we will bid farewell to 16 colleagues who have collectively given more than 200 years of service to our Nation through their service in the Senate. These include seven of the Senate's most experienced Members. People like CHRIS DODD and ARLEN SPECTER who have each served five terms in the Senate. KIT BOND who has served

four terms and BOB BENNETT, BYRON DORGAN, RUSS FEINGOLD, and JUDD GREGG, who have each served three terms in this Chamber.

When the 112th Congress convenes in January, the ranks of women Senators will be reduced by one. In fact, the 112th Congress will be the first Congress in recent memory in which the total number of women Senators will actually decline. And with the departure of our colleague, Roland Burris, there will not be a single African-American Senator when the new Congress convenes.

In January we will feel the loss of the great pitching ace, JIM BUNNING, and EVAN BAYH, both respected colleagues on the Energy and Natural Resources Committee. They are among six of my Energy Committee colleagues who are leaving the Senate this year.

JUDD GREGG, one of our Nation's foremost experts on the Federal budget leaves us at the end of the year. As this Senate comes to grips with the challenges of a rising deficit and economic stagnation we will miss his firm hand and thoughtful guidance. My neighbor in the Hart Senate Office Building, ARLEN SPECTER, is one of the Senate's most independent voices and perhaps the best friend that the National Institutes of Health, and every American who benefits from its cutting edge research, has ever had on Capitol Hill. BOB BENNETT, one of the most thoughtful among us, who draws wisdom from experience as an entrepreneur as well as in public service, will not be among us. I learned much from Senator BENNETT during the period that he served as counselor to the Republican leader and I served as vice chair of the Senate Republican Conference.

I would also like to acknowledge contributions of KIT BOND, one of the foremost experts on our Nation's transportation and infrastructure needs. I appreciate Senator BOND's interest in understanding the unique transportation and infrastructure challenges that we in Alaska, the largest State in our Union in terms of land mass and one of the youngest must contend with. Senator BOND, like all of us, wears many hats in this institution. He has also earned the undying respect of our Nation's citizen soldiers through his leadership of the Senate National Guard Caucus.

One of CHRIS DODD'S legacies to the Nation is legislation to ensure that the unique needs of children are addressed in our Nation's response to catastrophic disasters. I was honored to partner with Senator DODD in helping to pass this legislation.

RUSS FEINGOLD may have earned his place in history for his work on campaign finance reform but I will also appreciate him for his efforts to ensure that members of the National Guard and Reserve do not fall through the cracks when they return home with battlefield injuries. Senator FEINGOLD and I teamed on the Wounded Warrior Transition Act, a portion of which was included in the National Defense Authorization Act for Fiscal Year 2010. I will continue to pursue the remaining provisions in the new Congress.

SAM BROWNBACK has forever earned a place in the heart of our first Americans for his work on the adoption of a joint resolution apologizing to American Indians and Alaska Natives for centuries of ill conceived policies carried out by our Federal Government. He is known around the world as a champion of religious freedom as well.

GEORGE VOINOVICH came to the Senate after a distinguished career that included service as Governor of the State of Ohio and mayor of the city of Cleveland. He has made a substantial contribution to the efficient operation of our federal government as a leader of the Homeland Security and Governmental Affairs Committee. I appreciate his support of the effort that Senator AKAKA and I advanced, along with others, to make locality pay available to Federal employees in Alaska and Hawaii through the Non-Foreign Act of 2009.

I would like to say a few words about my friend BYRON DORGAN. In 2007, following the sudden and unexpected death of our friend and colleague Craig Thomas, I was elevated to vice chair of the Senate Committee on Indian Affairs. Senator DORGAN was the chairman of that committee. Last week both of us had the honor of addressing the National Congress of American Indians at one of the meetings that preceded President Obama's tribal summit. Each of us reflected on that fact that the committee has highly productive during the period we shared the gavel. During our time together the committee laid the groundwork for reauthorization of the Indian Health Care Improvement Act, more than a decade in the making. We reauthorized the Native American Housing Assistance and Self Determination Act, we pursued a settlement of the Cobell litigation, and we crafted and introduced the Tribal Law and Order Act, which President Obama signed into law earlier this year. Senator DORGAN has consistently championed adequate funding for the Indian Health Service and he has come to the floor on many occasions to speak to the unacceptable rates of suicide among Native youth. I am pleased to know that he will continue this work after he leaves the Senate. It comes from the heart.

As I noted at the outset, 2011 will be the first year in recent memory that the number of women serving in the Senate has actually declined. All of the women of the Senate will miss our dear friend and highly respected colleague BLANCHE LINCOLN. BLANCHE LINCOLN made history in her own right when she became the youngest woman ever elected to the Senate at the age of 38. Senator LINCOLN represented the people of Arkansas with distinction for two terms, juggling a demanding career in public service while raising two wonderful twin boys Reece and Bennett. She is truly a wonderful colleague to work with. A centrist who comfortably works across the aisle and votes her convictions. One of the kindest people in the Senate. I expect great things of BLANCHE LINCOLN in the future and I have every confidence she will deliver on that prediction.

It has been an honor and a pleasure to serve with each of the people who will leave this Chamber when we adjourn sine die. Each has made substantial contributions to their States, to the Nation and to the Senate during their time here.

DIESEL EMISSIONS REDUCTION ACT

Mr. CARPER. Mr. President, I am joined by my colleague, Senator VOINOVICH, in support of the passage of the Diesel Emissions Reduction Act of 2010, DERA. The folks of Ohio and Delaware sent us to Washington to find ideas that will work, ideas we can all agree on to make our country even better. An idea that works is the Diesel Emissions Reduction Act or DERA.

The DERA program is one of the best actions our government has taken to improve air quality and help States and localities meet air quality standards. First authorized in the Energy Policy Act of 2005, DERA has provided funding for the modernization of our Nation's old diesel fleet in the United States through voluntary national and State-level grant and loan programs. Since its enactment in 2005, DERA has provided significant public health benefits, improved our national energy security, and helped create jobs. Currently, DERA helps clean up more than 14,000 diesel-powered vehicles and equipment across the country, which has reduced emissions while employing thousands of workers who manufacture, sell or repair diesel vehicles and their components in each State.

The Environmental Protection Agency has estimated that there are still millions of older diesel engines now in use and need to be replaced or retrofitted. To meet this need, the Diesel Emissions Reduction Act of 2010 authorizes the continuation of this successful program for 2012 through 2016. It also slightly modifies the program to improve its effectiveness and administration. Despite the significant benefits and need for DERA, the legislation set the authorization levels for 2012 through 2016 at half the levels of that for 2007 through 2011. The authorizing levels were reduced to be more in line with what has been normally appropriated for the program. The cut in authorization levels in no way reflects the need for the program and in no way should be interpreted as an indication that funding levels should be decreased.

Senator VOINOVICH and I would like to thank the President and our colleagues for their support of DERA. We are proud that this commonsense approach to creating jobs and cleaning up our Nation's air will become law.

CONTINUING RESOLUTION

Mr. REED. Mr. President, I want to make a few observations about the continuing resolution and the appropriations process this year.

First, I want to commend Chairman INOUYE for his leadership and efforts to accommodate the views and input of all senators in crafting the omnibus appropriations bill. He went a long way to meet the demands of the minority leader and other senators to include a $29 billion cut from the budget level requested by the President. Indeed, I was deeply disappointed that the proposed omnibus would have eliminated the Leveraging Educational Assistance Program, LEAP. For more than a decade, I worked with states, educators, and others to reauthorize and fund this program, which uses Federal resources to leverage additional state aid to help low income students attend college. As much as I was dissatisfied by this outcome, I was prepared to vote for this bill because it is far superior to the inefficiencies and consequences of a continuing resolution. I am disappointed that such a significant compromise was blocked by the other side of the aisle.

Instead, we are being forced to adopt a short-term continuing resolution, CR, through March 4, 2011. With few exceptions, the CR provides no direction from Congress on how funds can be used, while at the same time failing to make critical adjustments and investments for certain programs and agencies. Critics of the omnibus appropriations bill should understand that unlike the thoughtful, lengthy, and open appropriations process that produced the omnibus, this CR was put together quickly without the input of most senators. As a result, it is hardly a thoughtful instrument for funding the government.

I am particularly concerned about the impact the CR will have on the capabilities of the Securities and Exchange Commission to provide robust oversight of financial markets.

Fair and orderly markets are critical to restoring confidence in the American economy. Despite considerable increases in the number of firms it is required to oversee and tremendous growth in the size and complexity of the securities markets and products it regulates, the SEC's workforce and technology investments are only now returning to the levels of five years ago.

Under the CR, the SEC will be funded at the fiscal year 2010 rate, which is nearly $200 million less than what was included during bipartisan negotiations on the omnibus. Without the omnibus's funding level, the SEC will have to halt several technology projects and forgo replacement of departing staff. Shortchanging the SEC will also make it extraordinarily difficult to fulfill new statutory requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act. The SEC has been tasked with helping establish an effective regulatory system for the previously unseen and largely unregulated over-the-counter derivatives market and the hedge fund markets. It has new responsibilities over credit rating agencies, including annual exams.

We should not make the past mistake of underfunding the SEC. This agency is critical to restoring the confidence of retirees and investors in the United States capital markets, so that they will again invest in American companies, helping inject new life into our economy. We should not be penny-wise and pound-foolish. Continuing to starve the SEC of the funds it needs to police markets will ultimately make it more likely to see a major fraud. Any incremental savings will be cold comfort for the losses incurred by taxpayers and investors.

Likewise, I believe we need to fully fund the Commodity Futures Trading Commission. At a hearing that Senator LEVIN and I held on December 8, 2010, Chairman Gensler informed us that his agency is going to be woefully short of resources. The continuing resolution for the CFTC will leave them about $116 million short of the funding level included in the omnibus.

I hope that we will have chance to address these critical shortfalls in the next funding vehicle to come before the Senate.

While it is true that overall the 36-page CR did not provide sufficient direction and oversight, it is important to acknowledge that the CR does make a few adjustments—some that are essential and others which I believe deserved greater consideration.

I want to applaud the addition of language in the CR that requires the Department of Health and Human Services to obligate the same amount of funding for the Low Income Home Energy Assistance Program as it did during the same period last year. This will make a total of $3.95 billion available to low-income families and individuals during the cold winter months. I hope that in the final appropriations bill we will meet the bipartisan request of 44 Senators to fully fund this program at the $5.1 billion level for the entirety of fiscal year 2011.

I am also pleased that the CR addresses funding for the Pell grant. According to recent estimates from the Office of Management and Budget, students would have faced a reduction of as much as $1,840 from the maximum grant. The CR will address the shortfall and ensure that we can maintain the Pell grant maximum at $5,550. Despite the economic hardships families are facing, they continue to prioritize education. They know that it is the foundation for our economic recovery and future prosperity. We must keep our end of the bargain by maintaining our commitment to the Pell grant.

I am, however, concerned that the CR includes a provision to codify a misguided Bush-era regulation that undermines our central goal of ensuring that students in high poverty schools are taught by highly qualified teachers and that parents know the qualifications of their children's teachers. Under the No Child Left Behind Act, enacted in 2002, a highly qualified teacher must have obtained full state certification, which may include certification obtained through alternative routes. The Bush administration published regulations allowing that a teacher who is merely enrolled in or making progress toward state certification to be deemed highly qualified. Parents in California have challenged the regulation in the courts and have won a favorable decision on appeal. Quite simply, they want to know whether their children's teachers are fully certified or just in the process of becoming certified. This provision prevents them from knowing that.

I am also deeply disappointed that this CR does not contain important language that would have allowed the Department of Defense to reprogram funds for new starts, increases in production, or other realignments. This provision would have given the Department further flexibility to ensure critical defense programs stay on schedule and on cost. This is especially important for the Navy's ship construction programs—programs that the Navy supports, were authorized by the Defense Authorization Act, and employ thousands of Rhode Islanders.

Without this provision, the Navy, and all of the services, will be further limited and constrained to execute programs within the funding levels set last year.

I have described some of the pitfalls with this CR. It is a crude instrument that has many shortcomings. Regrettably, the decision by our colleagues on the other side of the aisle to walk away from the omnibus placed the continued operation of government agencies from the Pentagon to the FBI to the FDA to the Treasury at risk. Adopting the CR, notwithstanding its significant flaws, is the only responsible option available. In the coming months, it is my hope that we can craft a full year funding measure that corrects the serious issues the CR has created and failed to address.

STORMWATER POLLUTION

Mr. CARDIN. Mr. President, today the Congress stands ready to approve S. 3481, a bill to clarify Federal responsibility to pay for stormwater pollution. This legislation, which will soon become law, requires the Federal government to pay localities for reasonable costs associated with the control and abatement of pollution that is originating on its properties. At stake is a fundamental issue of equity: polluters should be financially responsible for the pollution that they cause. That includes the Federal Government.

Annually hundreds of thousands of pounds of pollutants wash off the hardened surfaces in urban areas and into local rivers and streams, threatening the health of our citizens and causing significant environmental degradation.

A one-acre parking lot produces about 16 times the volume of runoff that comes from a one-acre meadow. These pollutants include heavy metals, nitrogen and phosphorous, oil and grease, pesticides, bacteria (including deadly e. coli), sediment, toxic chemicals, and debris. Indeed, stormwater runoff is the largest source sector for many imperiled bodies of water across the country. According to the Environmental Protection Agency, stormwater pollution affects all types of water bodies including in order of severity; ocean shoreline, estuaries such as the Chesapeake Bay, Great Lakes shorelines, lakes and rivers. Degraded aquatic habitats are found everywhere that stormwater enters local waterways.

We added a provision to the bill in order to rectify a specific problem in the District of Columbia, where the Department of Treasury has been paying some stormwater fees. The provision simply says that agencies and departments should use their annual appropriated funds to pay for stormwater fees. This is exactly what they all do today in paying for their drinking water and wastewater bills or any other utility bill, for that matter. This new language requires that Congress make available, in appropriations acts, the funds that could be used for this purpose. It does not mean that the appropriations act would need to state specifically or expressly that the funds could be used to pay these charges. The legislative language doesn't say that, and I want to be perfectly clear that such a restrictive reading is not our intent.

I believe that this administration recognizes its responsibility to manage the stormwater pollution that comes off Federal properties. But that responsibility needs to translate into payments to the local governments that are forced to deal with this pollution. Adopting this legislation today removes all ambiguity about the responsibility of the Federal Government to pay these normal and customary stormwater fees.

This is a matter of basic equity.

ACCOMPLISHMENTS OF THE 111TH CONGRESS

Mrs. BOXER. Mr. President, as we end this year, I wanted to look back at what we have been able to accomplish—and look ahead at some of the important priorities we must tackle next year.

The 111th Congress has been one of the most productive in our Nation's history.

Congressional scholar Norman Ornstein has said the legislative achievements of this session are ''at least on par with the 89th Congress'' of 1965–1966, under President Johnson, which produced landmark civil rights legislation as well as Medicaid and Medicare.

We should take a moment to reflect on some of those accomplishments.

After years of unsupervised gambling on Wall Street fueled an unsustainable housing bubble, we inherited the worst economic crisis since the Great Depression. We helped bring our economy back from the brink by taking bold action.

We passed the Economic Recovery Act, which has created or saved more than 350,000 jobs in my home State of California alone.

We approved the bipartisan HIRE Act—a jobs package that cut taxes for companies that hire unemployed workers and extended the highway trust fund. As chairman of the Senate Environment and Public Works Committee, I was pleased to help advance this critical measure to protect more than 1 million jobs nationwide building our roads, bridges and transit systems.

We helped small businesses—which are the true engines of our economic growth—by passing the Small Business Jobs and Credit Act. I was proud to join with Senator JEFF MERKLEY to create the new $30 billion small business lending fund, which will help community banks give small businesses the credit they need to create hundreds of thousands of new jobs.

We approved legislation to help save up to 16,500 teacher jobs in California—and nearly 160,000 teachers' jobs nationwide—and paid for it by closing tax loopholes for companies that ship jobs overseas.

We worked across the aisle to give much-needed tax relief to millions of middle-class families and extend unemployment insurance for 2 million out-of-work Americans and 400,000 Californians who would otherwise have lost their benefits this month. And I was proud to work with Senator FEINSTEIN and others to make sure this tax-relief package invests in clean energy, which will create tens of thousands of jobs in California and across the country.

And to ensure that we never again face a similar financial crisis, we passed landmark legislation to crack down on the reckless gambling on Wall Street, enacting tough reforms that will curb abuses, shine a light on dark markets and put a new cop on the beat to protect consumers. I was proud to offer the first amendment, which will ensure that taxpayers are never again on the hook to bail out Wall Street.

The 111th Congress was a landmark Congress for advancing civil rights for all Americans.

We approved the Lilly Ledbetter Fair Pay Act, to help ensure equal pay for equal work—regardless of age, race, gender, religion or national origin. It was the first bill signed into law by President Obama last year.

We passed the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act to strengthen the ability of law enforcement to investigate and prosecute hate crimes. The law adds gender, sexual orientation, disability and gender identity as protected categories under Federal hate crimes law.

Last week, in a historic step, we repealed the discriminatory don't ask, don't tell policy that has banned gays and lesbians from serving openly in the U.S. military. Back in 1993, I offered an amendment on the Senate floor to keep this unjust policy from being codified into law. Now, 17 years later, I am so proud to witness this incredible victory for civil rights, equality and a stronger nation.

I was also proud to join in confirming two new Supreme Court Justices—Sonia Sotomayor, the first Latina to serve on the high court, and Elena Kagan. When Kagan was sworn in this fall, it marked the first time our country has had three women serving together on the Supreme Court.

We also confirmed some highly qualified and historic judicial nominees from California this Congress—including Judge Lucy Koh for the Northern District of California, Judge Jacqueline Nguyen for the Central District of California, Judge Dolly Gee for the Central District of California, and Judge Kimberly Mueller for the Eastern District of California.

The 111th Congress also took momentous steps forward in protecting consumers, children and all our families.

We passed a landmark health care reform bill that will extend coverage to 7 million uninsured Californians, help seniors pay for prescription drugs, provide tax credits to help small business owners afford coverage, and ensure that insurance companies can no longer deny coverage because of preexisting conditions.

We approved legislation to allow the Food and Drug Administration to regulate tobacco and crack down on cigarette marketing and sales to kids.

We approved major reforms to the student loan system—ending subsidies to big banks, saving taxpayers money and providing Pell grants to 63,000 more students in California over the next decade.

We passed credit card reform legislation to protect consumers from excessive fees and deceptive practices.

And this month, we enacted a food safety bill that will help consumers and California's agriculture industry by protecting our Nation's food supply from outbreaks of foodborne illnesses.

I am also pleased that the Airline Passenger Bill of Rights that I have championed with Senator OLYMPIA SNOWE is now being implemented by the Department of Transportation. As a result, we are already seeing fewer long tarmac delays for airline passengers.

The 111th Congress has also taken great strides to protect public health and our environment.

We passed legislation protecting more than 2 million acres of wilderness and creating a national system to conserve land held by the Bureau of Land Management. The legislation included three bills I sponsored designating 700,000 additional acres of wilderness in California, from the Eastern Sierra Nevada to the San Jacinto Mountains in Riverside County.

I have been honored to serve as chairman of the Environment and Public Works Committee during a period of extraordinary accomplishments. In the 111th Congress, the EPW Committee held more than 80 hearings and approved more than 70 pieces of legislation. More than 20 EPW bills have gone to President Obama for his signature, including legislation to create jobs and accelerate economic recovery, to protect children and families from dangerous chemicals in the environment, and to address the dangers of unchecked climate change.

The committee has played a critical oversight role. While the oil was still gushing into the Gulf of Mexico, we held hearings to demand answers from oil company executives and Administration officials on the causes and impacts of the BP Deepwater Horizon oil-spill disaster. As a result, BP provided the committee with previously unavailable video records gathered since the incident. EPW then provided scientists, the public and the media with access to this important underwater video.

One of our most basic responsibilities is to protect children and families from dangerous toxins in the air they breathe and the water they drink.

Parents have a right to expect that their children are safe from environmental hazards when they are at school. But following reports that found toxic air pollution levels at schools across the country, our oversight efforts led to additional EPA monitoring of air pollution at schools in California and in other States.

Emissions from ships' engines are a major cause of persistent air-quality problems at California's ports, including the Ports of Long Beach and Los Angeles, and at other ports around the Nation. EPW oversight helped shine a light on the importance of setting strong safeguards to reduce air pollution from marine vessels, and earlier this year international authorities officially designated waters off North American coasts as subject to strong international emission standards for ships.

I was also pleased when the Senate passed a bipartisan bill I sponsored with my ranking member, Senator JAMES INHOFE, to protect people from toxic lead in drinking water pipes, pipe fittings and plumbing fixtures. The bill is now on its way to the President's desk.

I was also pleased to work with Senators GEORGE VOINOVICH, TOM CARPER and INHOFE to pass bipartisan legislation to strengthen efforts to reduce pollution from diesel engines. Diesel exhaust contributes to pollution that threatens the health of millions of people in California and contributes to asthma, heart disease, cancer and other illnesses.

We also enacted legislation to study the impact of black carbon pollution, and bipartisan legislation to enforce more protective standards on cancer-causing formaldehyde in wood products.

After the Tennessee Valley Authority, TVA, coal ash disaster 2 years ago released more than 1 billion gallons of toxic material, EPW held hearings into the incident and we initiated an investigation of the dangers of coal combustion waste. We succeeded in ensuring that the Obama administration publicly released the list of other high-hazard ash sites because families have a right to know about dangers to their communities.

Making the transition to the clean energy economy is one of the best ways to create millions of jobs and protect our children from dangerous pollution, and it will help break our dangerous dependence on foreign oil, which costs us a billion dollars a day and threatens our national security.

Thanks in large part to the groundwork laid by the EPW Committee's vigilant oversight during the 110th Congress, the EPA finally in 2009 granted California's request for a waiver to tackle tailpipe emissions of global warming pollution and incorporated the waiver into a landmark agreement that will boost fuel efficiency, save consumers money, cut carbon pollution, and save billions of barrels of oil.

As chairman, I am committed to continuing to work on legislation that reduces pollution, promotes energy efficiency and creates incentives to speed the transition to clean, renewable sources of energy.

President Obama has already signed EPW legislation to train building operators and contractors to improve the energy efficiency of federal facilities, and our committee passed bills to make schools and other public buildings more energy efficient, and to provide incentives for clean energy development on abandoned or formerly contaminated sites. In the new Congress, I plan to continue to work to ensure that the U.S. Government facilities are models of clean-energy technology and energy efficiency

This Congress has also taken action to protect our national security and support our troops and our veterans.

We just came together in a bipartisan fashion to ratify the New START treaty, which will help protect the national security of the United States by ensuring there are mutual reductions in nuclear weapons and delivery systems, and ensuring that our nuclear inspectors are on the ground in Russia.

We enacted tough new sanctions against Iran—another bipartisan vote that sends a clear and resounding message to Iran that it will pay a heavy price for its reckless pursuit of nuclear weapons.

We also passed legislation to improve the way the VA is funded, helping veterans get timely access to services and care. And we passed important legislation to compensate the family caregivers of our severely wounded service men and women. No one should have to face financial hardship for choosing to care for a loved one who was wounded in war.

As chair of the Senate Military Family Caucus, I was pleased to see the Senate approve my legislation to help reimburse military families for the cost of traveling off base to obtain needed specialty medical care.

Senators KIT BOND, JOE LIEBERMAN and I also worked to expand the use of veterans centers to active, Guard and Reserve U.S. military personnel.

As a member of the Senate Foreign Relations Committee, I was proud to help secure $30 million to help women-led nongovernmental organizations in Afghanistan provide direct services such as adult literacy programs, vocational training and health services.

And I was proud to join Senator BOND to help secure funding for an additional eight C–17 aircraft, which are built in Long Beach and are critical to our national defense.

While we have made significant progress, there is still more to be done to create jobs, get our economy back on track, protect consumers and the environment, and make life better for all Californians and all Americans.

We must ensure that California and other states can continue to lead the way toward a clean energy future, which is already creating hundreds of thousands of jobs.

We must continue to put Californians and Americans back to work by rebuilding our road, bridges and transit systems.

As we look to the 112th Congress, the Environment and Public Works Committee will continue to focus on creating jobs and turning our economy around through the next surface transportation authorization and through a new Water Resources Development Act.

And we will continue to shine a spotlight on the need to ensure the air our families breathe and the water our children drink is clean and safe. After the recent reports that found toxic chromium-6 contamination in drinking water in California and across the Nation, we have planned hearings on chromium-6 for early 2012. Senator FEINSTEIN and I sent a letter urging the EPA to act, and the agency has already begun to respond by offering assistance to affected communities.

We will also work to ensure communities that suspect they have a cluster of environmentally caused illness have access to the federal experts and other resources that can help them get the answers they deserve.

We must provide incentives for U.S.-based companies to bring home billions of dollars sitting offshore from foreign sales. Bringing those funds home could be major boost to our economic recovery from the private sector.

While I was disappointed that our efforts to pass the DREAM Act were blocked, we must continue to work to pass comprehensive immigration reform. Our broken immigration system tears families apart and hurts our economic competitiveness, and we must

work together to fix it. I will keep fighting for these young people who are raised in America and I will continue to work to pass AgJobs.

And we cannot rest until other important judicial nominees are confirmed, including professor Goodwin Liu for the Ninth Circuit Court of Appeals, Judge Edward Chen for the Northern District of California, Judge Edward Davila for the Northern District of California, and Judge Anthony Battaglia for the Southern District of California.

While we passed legislation to help the 9/11 first responders, now we must finish the work of making sure our firefighters and public safety workers have fair working conditions.

I will also keep working to pass important bills that we approved in committee this year to protect our public lands, waterways and ocean resources, including legislation to help restore the Chesapeake Bay, the Great Lakes, Lake Tahoe, and the San Francisco Bay.

I am grateful to the people of the California for the opportunity to represent them in the United States Senate. I look forward to hearing their ideas as we continue our work in the 112th Congress next year.

HONORING OUR ARMED FORCES

Mr. NELSON of Florida. Mr. President, I pay tribute during this holiday season to the men and women serving our Nation so nobly across the globe. As we mark the 10th year our Nation has been engaged in combat, we should all be reminded of the extraordinary sacrifice of our soldiers, sailors, airmen, marines, and coast guardsmen.

As we gather with our loved ones, we must not forget those servicemembers who cannot be with their families and friends this holiday season. We honor these men and women risk their lives to protect our freedom and way of life. The one constant in this uncertain time is the heroism of people who so willingly fight for freedom. The strength of our Nation is built on their devotion and sacrifice.

SPECIALIST KELLY J. MIXON

I rise today to honor the fallen, like Army SPC Kelly J. Mixon of Yulee, FL, who was killed by an improvised explosive device in Afghanistan on December 8. Specialist Mixon would be 24 years old on Christmas Eve. Sadly, he will be buried in Arlington National Cemetery on December 29.

To the many men and women who have given the last measure of freedom, our country will remember your bravery and patriotism. To the families of these fallen servicemembers, we can never express enough gratitude for the sacrifice you must bear. On behalf of the people of Florida and our Nation, our prayers are with you.

COMPREHENSIVE DATA PRIVACY

Mr. LEAHY. Mr. President, as we approach the end of another year—and the end of the 111th Congress—millions of Americans continue to face growing threats to their privacy and security because of data security breaches involving their most sensitive personal information. Last year, I reintroduced the Personal Data Privacy and Security Act—a bipartisan and comprehensive bill that will better protect Americans from the growing threats of data breaches and identity theft. I am disappointed that the Senate will adjourn for the year without considering this important privacy legislation.

This long overdue privacy bill would establish a national standard for breach notification and requirements for securing Americans' most sensitive personal data. The bill—as improved by my manager's amendment—strikes the right balance to protect privacy, promote commerce, and successfully combat identity theft. I urged the Senate to consider and pass this important privacy legislation before we adjourn for the year. Despite its bipartisan approval by the Judiciary Committee, the ranking Republican is objecting and refusing to allow the Senate to proceed.

When I first introduced this bill 6 years ago, I had high hopes of bringing urgently needed data privacy reforms to the American people. I have worked closely with both Republican and Democratic Senators since to enact this important privacy legislation. Although the Judiciary Committee favorably reported this bill three times—in 2005, 2007, and yet again in 2009—it remains stalled on the Senate Calendar. While the Senate has waited to act, the dangers to our privacy, economic prosperity, and national security posed by data breaches have not gone away.

The recently reported cyber attacks in response to the WikiLeaks disclosures are fresh reminders of the urgent need to have national standards to protect the privacy of America's digital information. In June, the insurance company WellPoint, Inc., announced that 470,000 individuals who used the company's Web site to apply for insurance may have unwittingly exposed their Social Security numbers and other sensitive data to the public. Just last month, the University of Hawaii suffered a major data breach involving sensitive student data, including Social Security numbers, dates of birth, names, and grades. And a recent data breach at the Department of Veterans Affairs resulted in the unauthorized release of the Social Security numbers and other personal information of at least 180 of our veterans. These troubling data breaches are painful reminders of the need to enact comprehensive Federal data privacy legislation this year.

This bill offers meaningful solutions to the vexing problem of data security breaches. It requires that data brokers let consumers know what sensitive personal information they have about them and to allow individuals to correct inaccurate information. The bill also requires that companies that have databases with sensitive personal information on Americans establish and implement data privacy and security programs.

In addition, the bill requires notice when sensitive personal information has been compromised. The bill provides for tough criminal penalties for anyone who would intentionally and willfully conceal the fact that a data breach has occurred when the breach causes economic damage to consumers. Finally, the bill addresses the important issue of the government's use of personal data.

I am pleased that the Obama administration has recently issued two privacy reports that make recommendations to improve data privacy that are consistent with the approach adopted in my bill.

I drafted this bill after long and thoughtful consultation with many of the stakeholders on this issue, including the privacy, consumer protection, and business communities. I have also worked closely with other Senators, including Senators FEINSTEIN, HATCH, FEINGOLD, SPECTER, and SCHUMER.

This is a comprehensive bill that not only deals with the need to provide Americans with notice when they have been victims of a data breach but that also deals with the underlying problem of lax security to help prevent data breaches from occurring in the first place. The House of Representatives has passed comprehensive data privacy legislation. The Senate should also pass comprehensive data privacy legislation and should have done so this Congress.

There has been ample time to resolve any concerns, but still there are those who are refusing to allow the Senate to act. We cannot afford to continue to wait to address this important privacy issue. The American people are suffering the consequences of that inaction.

CONTROLLED SUBSTANCES ACT

Mr. KOHL. Mr. President, the basic outline of legislative changes to the Controlled Substances Act that we expect to receive from the Department of Justice are as follows:

The legislation will deem certain nurses or other licensed health care professionals, who are designated by the nursing home as agents of DEA-licensed practitioners (practitioners being the resident's attending physician or specialist), as authorized to transmit the practitioner's order for a controlled substance, specifically Schedule II drugs, to DEA-licensed pharmacies, either orally or by fax. The nursing home, while not licensed by DEA, will be responsible for designating those who are authorized to transmit a practitioner's order, and for making a list of such authorized agents available to the pharmacy.

Whenever oral or faxed orders for controlled substances come in from authorized agents, pharmacies will be required to verify, based on the nursing home's list, that the nurse is authorized to call or fax in the practitioner's order. This chain-of-accountability process will allow the practitioner to

give oral instructions for ordering a controlled substance to the resident's nurse over the phone. In addition, practitioners will be permitted to opt out with certain employees, should a practitioner have a problem with a particular nurse or designee.

Both practitioners and the nursing home will be required to keep written logs, or records, of such oral (or faxed) orders that are submitted by nurses. The nursing home will be further required to keep the list of authorized nurses current and to immediately notify the pharmacy of any changes in this list. Nurses or other licensed health care professionals who are authorized as agents by the nursing home will be required to formally acknowledge their responsibility for ordering and administering controlled substances by accepting liability in terms of certain penalties that would apply under the Controlled Substances Act if they engage in diversion or other unacceptable practices.

Pharmacies will also be required to maintain logs, or records, of the orders that are placed by authorized nurse agents. Pharmacies will be further required to make telephone (or fax) contact with the resident's practitioner, under whose authority the controlled substances were ordered, within 48 hours of the time that the authorized agent transmits the order. The pharmacy will then be required to verify, and record, that the practitioner ordered a controlled substance. The practitioner will also be required to provide a written prescription to the pharmacy for the controlled substance within 10 days of the time that the authorized nurse agent transmits the order. Additional reasonable safeguards may be included.

TRIBUTE TO AMBASSADOR BATU KUTELIA

Mr. KERRY. Mr. President, I rise today to mention a distinguished Ambassador who is leaving Washington after a regrettably short tenure. Batu Kutelia, Ambassador of Georgia to the United States, is returning to his country to assume an important post in his government as Deputy National Security Adviser.

Although Ambassador Kutelia was only in Washington as Ambassador for less than 2 years, he and his wife Sofia and their young family will be missed by the many friends they leave behind. He will also be remembered for reinforcing and advancing his country's relations with the United States.

Ambassador Kutelia represented Georgia in Washington in challenging times. Following the 2008 war with Russia, in which he served as First Deputy Minister of Defense, the Ambassador helped facilitate the economic and political assistance necessary to rebuild and continue Georgia's economic development. He also ensured that Georgia's agenda within the U.S.-Georgia Charter on Strategic Partnership was ambitious and serious. Ambassador Kutelia's work with our government on the training of Georgian forces participating in the NATO International Security Assistance Force mission expedited their successful deployment to Afghanistan.

Ambassador Kutelia possesses a sophisticated understanding of Congress and its responsibilities within our democratic system. He was extremely accessible, maintaining strong working relationships and friendships with many Members and staffers. During the Ambassador's tenure, it is a fact that Georgia had a persuasive and effective representative whose passion for his nation never flagged and whose engagement with Congress far exceeded that of bigger countries with much larger embassies. Rarely did a Georgian official pass through Washington without at least one interaction with Congress, an admirable record which did a great deal to stimulate interest and engagement between the United States and the country of Georgia.

Many of us on Capitol Hill have come to know and respect Georgia and its people. Georgia's future will be written by young leaders such as Batu Kutelia. I cannot help but believe that the country's future will be bright if it continues to produce leaders of his caliber. I wish him the best at his coming service in Tbilisi.

DON'T ASK, DON'T TELL

Mr. FEINGOLD. Mr. President, the repeal of the discriminatory don't ask, don't tell law will mean a stronger and more secure America. Discrimination has no place in American society, especially when it undermines our national security by hampering military readiness. While the repeal of this law is long overdue, ending this harmful policy does mark an important moment in the fight for equal rights for all Americans. I applaud all those who worked to overturn this policy, the many Americans who advocated for its repeal, and the patriotic men and women who will now be able to openly serve their country.

ALASKA CONSERVATION PARITY ACT

Mr. BEGICH. Mr. President, I want to take this opportunity to discuss an issue of importance to Alaska Native communities. The legislation currently under consideration would extend through 2011 the enhanced tax incentive for donations of qualified conservation easements. Unfortunately, Alaskan Native communities are ineligible under this provision and, as a result, do not have access to the tools they need to permanently protect historical or critical habitat.

For thousands of years, Alaska has been home to Native communities, whose rich heritages, languages, and traditions have thrived in the region's unique landscape. These communities continue to engage in a traditional subsistence lifestyle and harvest their food from the land. Nearly 70 percent of Native communities' food comes from the land and, for many communities, subsistence is an economic necessity considering the cost and difficulty involved in purchasing food.

I, along with my colleague, Ms. MURKOWSKI, have proposed legislation, S. 1673, which would provide parity. Our proposal is imperative to the long-term survival of Alaska-Native communities and Alaska's nature resources, which makes this critical legislation timely. Development pressures are increasingly significantly in many parts of Alaska. This legislation will allow private land owned by Alaska Native communities to be protected, while facilitating development that will spur needed economic activity and job growth.

We have worked with the Senate Finance Committee over the past 2 years to ensure that this provision is ready for enactment. It is widely supported by the conservation community. I was hopeful it would be included in the end-of-the-year tax package the Senate is currently considering. Since the Senate was unable to address Alaska Native conservation parity before the end of the 111th Congress, I would be interested in learning, from the chairman of the Finance Committee, what his plans are for advancing the proposal in the 112th Congress.

Mr. BAUCUS. I am happy to respond to Mr. BEGICH from Alaska. I support the conservation easement deduction and sympathize with the Senator's efforts. I will work with Mr. BEGICH and Ms. MURKOWSKI to address conservation issues in the new Congress.

Mr. BEGICH. I thank you, Mr. BAUCUS. I appreciate the Senator's support on this issue, and look forward to working with him and my other Senate colleagues to pass this much needed piece of legislation as soon as an opportunity presents itself in the new Congress.

MAIL ORDER PHARMACY RATINGS

Mr. AKAKA. Mr. President, I commend the Department of Veterans Affairs on a very impressive recent achievement. The Department's mail-order pharmacy program was recently rated as top in the Nation among mail-order pharmacies by J.D. Power and Associates in their 2010 U.S. National Pharmacy Study.

VA received a score of 888 points out of a maximum possible score of 1,000. The Department did not receive an award for this achievement because their pharmacy service is only open to veterans and their families, but they did outscore the award recipient by a full 34 points, and the mail-order pharmacy average by 70 points. VA's program received the highest scores in the J.D. Power categories of overall experience, prescription ordering, prescription delivery, and cost competitiveness.

This is an extraordinary achievement, not only to be rated first in the Nation, but to so highly exceed the private sector. I congratulate VA, and especially commend Secretary Shinseki and Mr. Michael Valentino, Chief Consultant, Pharmacy Benefits Management Services, for their exceptional leadership success in implementing the mail-order pharmacy program.

AFGHANISTAN

Mr. DORGAN. Mr. President, as Congress begins next year to consider a range of policy choices in both domestic and foreign policy areas, I hope that at long last, we will decide that the war in Afghanistan must end.

That war has lasted 9 years and we are now engaged in nation building in a country with a government that I believe is both incompetent and corrupt.

We began the actions in Afghanistan to capture or kill the terrorist groups that had launched the 9/11 attack on our country.

Now, many years later, we are bogged down in a war in Afghanistan where our intelligence officials tell us there is only a minimal presence of the terrorist group al-Qaida. Some estimates put the number of al-Qaida operatives in Afghanistan at fewer than one hundred.

We are now engaged in fighting the Taliban in Afghanistan and, frankly, there are a number of foreign armies that have tried and failed in Afghanistan over many centuries.

I don't believe there is any chance of our ever controlling the tribal regions of Afghanistan.

Furthermore, we ought to be fighting terrorism where terrorists, are rather than where terrorists were. We know that al-Qaida has reconstituted training camps in Northern Pakistan, and we suspect that is where their leadership is. We know al-Qaida is in Somalia and Yemen and other places. But, we are bogged down fighting the Taliban in Afghanistan. And frankly, that is not where the terrorists are.

It is time for our country to understand that this is an effort that will continue to drain our treasury and will result in the deaths of more American troops, but will not result in our controlling the territory of Afghanistan. We will be stuck for a long period of time with a permanent military presence at great cost and we will be paying for Afghanistan's defense even while failing to control the tribal regions of Afghanistan.

Recognition of those facts ought to persuade us to begin withdrawing from Afghanistan as soon as possible and begin pursuing terrorists where terrorists are now, not where they were then.

TRIBUTE TO GARY DIONNE

Mrs. FEINSTEIN. Mr. President, next month marks the retirement of Mr. Gary Dionne after 34 years in government service. Throughout this time, Gary has been both the consummate professional and a friendly presence in the halls here on Capitol Hill.

Mr. Dionne currently is the deputy director of the Office of Legislative Affairs for the Office of the Director of National Intelligence, and will be retiring from Federal service after fulfilling a career of dedicated support to the U.S. intelligence community and the National Security mission. A senior intelligence officer, Mr. Dionne has had a varied and distinguished career, having worked in different positions and capacities for the Department of Navy, the Central Intelligence Agency, and the Office of the Director of National Intelligence. For most of that time, Gary worked in the intelligence field where efforts and successes are not always rewarded publicly. I am glad we can do so here today.

Mr. Dionne, the son of Roland and Eva Dionne, a draftsman and consumer sales representative respectively, was raised in the small suburban town of Leominster, MA, a town known best as a hub for plastic factories but gained world-renowned fame as the originator of the plastic pink flamingo!

Following graduation from Leominster High School in 1975, Mr. Dionne enlisted in the U.S. Navy as a cryptologic technician radioman. Trained in Morse code and high frequency direction Finding, Petty Officer Dionne supported U.S. Naval Intelligence while stationed in Augsburg, Germany, followed by a fleet assignment to the Command for Middle East Forces. As a member of the admiral's staff, Mr. Dionne provided intelligence support aboard the U.S.S. La Salle, U.S.S. Vreeland, U.S.S. Elmer Montgomery, U.S.S. Blandy, and the U.S.S. Aylwin.

Completing an enlistment with the U.S. Navy, Mr. Dionne subsequently joined the Central Intelligence Agency in 1981. Following training as a communications officer within the Office of Communications, Mr. Dionne supported intelligence activities in Central America and on back-to-back assignments to West Africa where he was promoted to Officer in Charge of the Telecommunications Unit. In this position he was responsible for the daily supervision of personnel and technical resources to maintain a multimillion-dollar communications facility.

After returning to CIA Headquarters, Mr. Dionne was assigned as deputy chief, headquarters operations branch, where he was responsible for VIP communications in domestic and foreign activities. This included communications support for the Director of Central Intelligence as well as support for Presidential and Cabinet members travel. Building on his technical background, he attended classes at George Mason University working toward a bachelor's degree in network management.

In 1994, Mr. Dionne assumed the responsibility of associate director, of the Agency Network Management Center where he had oversight responsibility for the daily health and welfare of the domestic telecommunications network. Mr. Dionne was then selected as chief of the resource management staff, operations group, where he managed the tactical and strategic direction for a multimillion-dollar telecommunications operational budget. This was an extremely rewarding assignment for Mr. Dionne where his efforts directly supported for the agency's world-wide activities.

Mr. Dionne was selected to participate as a congressional fellow through the Government Affairs Institute at Georgetown University where he acquired a certificate in legislative studies. Mr. Dionne accepted a position on the U.S. House of Representatives Committee on Energy and Commerce staff and provided technical support to the Subcommittee on Communications, Technology and the Internet, as well as to the Subcommittee on Oversight and Investigations. Mr. Dionne viewed his experience in Congress as an awe-inspiring, humbling experience where he witnessed truly remarkable people working the most difficult challenges on behalf of America.

In 2002, following his fellowship in Congress, Mr. Dionne returned to the CIA in the Office of Congressional Affairs where as a liaison officer, he managed congressional activities for the community management account and the directorate of operations. Following the tragedy of September 11, 2001, Mr. Dionne was identified as the responsible congressional liaison officer for all intelligence community engagements with the Congressional Joint Intelligence Committee as Congress conducted their review of the intelligence failures leading up to September 11. From there Mr. Dionne served as the congressional liaison to the National Counter Terrorism Center and to its predecessor, the Terrorist Threat Integration Center. In 2007, Mr. Dionne was selected in to his current assignment as the deputy director of the Office of Legislative Affairs, for the Office of the Director of National Intelligence.

Throughout his career and travels around the world, Mr. Dionne is most grateful to have had the loving support of his wife Catherine who grew up in the same little factory town and whom he has known since they were in middle school together. He is so proud of his two daughters, Danielle, for serving as a 1st grade school teacher in Loudoun County, VA, and his daughter Antonia, for her ability to master Mandarin and who is presently working at the U.S.-China Policy Foundation in Washington, DC.

Mr. Dionne, thank you for your service to our country and good luck in all your future endeavors.

YOUTH DRUG USE

Mr. GRASSLEY. Mr. President, it is with great sadness and concern that I report that more and more kids are turning to drugs. Recently released annual studies that track drug use trends among youth and adults are indicating rapid increases in drug use among all age groups. The most recent National Survey on Drug Use and Health indicates drug use among people aged 12 and older increased by 9 percent since 2008. According to this survey, over 7 million people in the past year are estimated to have used drugs. Among these

numbers, it is estimated that over 4 million people have abused marijuana, which is well over half of all drug abusers in this survey.

Even more disturbing are the rapid increases in drug use among America's youth. New figures from the Monitoring the Future Study, which is conducted by the University of Michigan and surveys school age kids' drug use from 8th grade to 12th grade, have shot up significantly. The rapid increases are due to higher use rates of marijuana among all age groups. Among the youngest surveyed, marijuana use jumped to 16 percent from 14.5 percent in the past year. Marijuana use has increased so much among high school seniors that more are now smoking marijuana than tobacco in the past 30 days. According to this survey, more than one in three high school seniors have smoked marijuana in the past year. Also troubling are the increases in the use of ecstasy, heroin, and the ongoing high abuse rates of prescription and over-the-counter medicines. On top of all this, the survey also determined that accompanying the increased drug use was a decreased perception that drugs are harmful.

In my home State of Iowa, the Governor's Office of Drug Control Policy reports in their 2011 Drug Control Strategy that marijuana continues to be the most abused illegal drug in Iowa. According to this report, nearly two-thirds of all children in substance abuse treatment are there for marijuana use. It is reported that these are the highest rates of marijuana-using treatment clients in recent Iowa history. The 2008 Iowa youth survey also shows that over one in four Iowa 11th graders have used marijuana in the past year.

It is easy to read these numbers but not fully grasp the magnitude of what is happening in this country. Dr. Nora Volkow, the director of the National Institute on Drug Abuse, states that the earlier teenagers start using marijuana the greater the risk they will have down the road. Dr. Volkow states, ''Not only does marijuana affect learning, judgment, and motor skills, but research tells us that about 1 in 6 people who start using it as adolescents become addicted.'' The more we have young people turning to drugs the more they are putting their health and futures on the line. Not only do these numbers suggest more young people are putting themselves at risk, but they also show that the future of the country is at risk. These numbers are completely unacceptable and they illustrate that we are failing our kids.

How did we get to this point? The National Survey on Drug Use and Health stated that while their findings are disappointing, they were not unexpected. The survey reported that data from the past two years have shown that young people's attitudes about drugs and their risks have been ''softening.'' This means that kids are more and more coming to the conclusion that drug use really isn't as bad as it is made out to be. The Monitoring the Future Survey also indicates that young people's perceptions on drug use, especially the harms associated with marijuana use, are rapidly moving in a negative direction. The survey states, ''Increases in youth drug use . . . are disappointing, and mixed messages about drug legalization—particularly of marijuana—may be contributing to the trend. Such messages only hinder the efforts of parents who are trying to prevent their kids from using drugs.'' Dr. Volkow also agrees that the debate over legalizing marijuana is contributing to the rising youth drug abuse rates. Dr. Volkow states, ''We should examine the extent to which the debate over medical marijuana and marijuana legalization for adults is affecting teens' perceptions of risk.''

The Obama administration also appears to agree with the above conclusions. The national drug czar, Gil Kerlikowski, who is Director of the Office of National Drug Control Policy states, ''The increases in youth drug use . . . are disappointing. And mixed messages about drug legalization, particularly marijuana legalization, may be to blame. Such messages certainly don't help parents who are trying to prevent young people from using drugs.'' I could not agree more with this statement. However, I can't help but feel that this administration is contributing to the problem and not the solution.

In October 2009, the Department of Justice issued a memorandum to all U.S. attorneys regarding the prosecution of individuals who use or sell marijuana for medical purposes in states that allow it. This new policy states that U.S. attorneys should not expend resources to prosecute individuals who are complying with State laws regarding selling, possession, and use of marijuana for medical purposes. These State laws are in direct conflict with long existing Federal laws. The memorandum also states that this new policy will not alter the Department's authority to enforce Federal law.

This confusing policy attempts to have it both ways. The DOJ is telling U.S. attorneys that they should not prosecute people in States that allow medical marijuana, but the policy does not prevent them from doing so. This policy is a departure from the longstanding DOJ position to prosecute individuals who violate Federal law notwithstanding State law. This policy is ill advised, misguided, and internally inconsistent. It also sends the wrong message that this administration is deciding which laws it would prefer to enforce rather than upholding and aggressively enforcing all existing laws.

Unfortunately, the mixed messages don't stop there. Just a few weeks ago, the Judiciary Committee took up the nomination of Michelle Leonhart to be Administrator of the Drug Enforcement Administration. Following her hearing, I asked a pretty straight forward question, did she support efforts to decriminalize or legalize the use, production, or distribution of marijuana, for medical purposes or otherwise. I was disappointed when I received her response that simply stated, ''I support the Administration in its clear and steadfast opposition to the legalization of marijuana.'' While I agree that the administration should be ''clear and steadfast'' in opposing the legalization of marijuana, her answers did not address the issue of decriminalization. In fact, it took a follow-up letter from me to Ms. Leonhart to clarify this response where she finally stated she was ''concerned with any actions that would lead to increased use of abuse and therefore, do[es] not support decriminalizing the cultivation, distribution, and use of marijuana for any purpose other than legitimate research.'' While I appreciate this more detailed response, it raises questions as to why this more comprehensive answer wasn't part of her initial response to my question. It is this sort of inconsistent response to simple questions on drug use that is sending mixed messages to minors across the county regarding the legalization and decriminalization of marijuana.

We should not be getting mixed messages on marijuana use. The Obama administration should send a strong, unequivocal message to kids that marijuana use is harmful, rather than issuing inconsistent statements and new policies that endorse State efforts to legalize marijuana use in certain instances.

I have long supported a unified, and consistent antidrug message combined with grassroots community efforts to combat drug abuse in all forms. Kids need to constantly hear the message that drug use is harmful and not safe. They need to hear it from all sectors of the community whether it comes from home, school, or anywhere else. That is why I continually support local community antidrug coalitions. These coalitions are on the front lines in communities and are probably our best weapon in the fight against drug abuse. The people who comprise these coalitions care deeply about their communities and they should be supported in their efforts.

If the Obama administration truly believes that the rise in youth drug use is blamed in part on sending mixed messages about marijuana then they need to reconsider their own actions. We need to recognize the importance of sending strong and united messages about marijuana and drug use at large. We can start by being consistent with our own words and actions. Perhaps then we may be able to start to reverse the rising trends in youth drug use that have occurred since President Obama took office.

TROOP THANKSGIVING RECOGNITION

Mr. ENZI. Mr. President, I want to share with you a story of Thanksgiving that touched my heart. I am doing it just before Christmas to have you think about the effect of holidays on people away from home and especially troops stationed away from home and something you might do on a very small scale.

Two years ago, a barber in Cheyenne, WY, was cutting the hair of a young man from F. E. Warren Air Force Base and asked him what he was going to do for Thanksgiving. The airman guessed he would be spending it on the base. The barber, Glen Chavez said, Why don't you have Thanksgiving with my wife and I? Then Glen decided he better tell his wife. When he did she said, ''Glen, I know you. It won't be just one and it won't be limited to a dozen. I'll help, but we need to find someplace bigger than our home.'' So Glen asked the Masonic Lodge if he could use their building. They said yes and Glen with the help of some friends fed 300 people from the base. Yes, the base serves a Thanksgiving dinner, but it is not the same if you eat it in the same mess hall you eat in every day. Chavez said he started the event to combat the loneliness that many members of the military feel when they are away from their families during the holidays

The dinner was such a success that Glen decided to invite even more for the next year and to have more of the community involved. I am sure there is not a base and city anywhere that has the degree of cooperation and concern as Cheyenne and Warren Air Force Base. For example, people from the base help construct Habitat for Humanity homes. The school district built a new school on the base that also has kids attend who do not live on the base and have no military connection. The mix benefits everyone. Glen spent the year getting ready for this event speaking and enlisting the Chamber of Commerce and speaking at Lions, Rotary, and Kiwanis, to name a few.

So this year was the Second Annual Salute to our Troops. Steve Sears of Cheyenne Stitch donated T-shirts for the volunteers. The fire department cooked turkeys. They deep fried seven an hour for the 24 hours before the meal. A service club cooked 750 pounds of potatoes and mashed them. People from all over the community baked pies and cakes. Dozens of other volunteers helped out. Businesses donated door prizes. One prize was a 40-inch HD TV. This Thanksgiving they served over 500 people.

This year there was publicity to be sure all were invited. Posters went up all over the base and town. Some of that publicity made it to the blogosphere nationally. Glen got calls from 14 States commenting on the good idea and checking to see if they could duplicate it. Many who called told of personal difficulties, some with tragic endings, that this kind of an event can perhaps prevent.

Mr. President, I ask unanimous consent for an article about the event from the Wyoming Tribune Eagle to be printed in the RECORD. I want to thank Glen Chavez, the barber, for his idea and his ability to turn a dream into reality. Thanks also to all who made the dinner and appreciation of our troops possible.

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

[From the Wyoming Tribune-Eagle, Nov. 13, 2010]

TROOPS GET A BIG THANK-YOU

(By Josh Mitchell)

CHEYENNE—Daniel Fletcher with the Army National Guard has two families, and he felt fortunate to be with one of them on Thanksgiving.

The family he was with consisted of fellow soldiers and was some 500 members strong.

His other family is spread across the United States.

As Fletcher sat at a table surrounded by other soldiers at the Masonic Lodge, he reflected on the importance of being with loved ones on Thanksgiving.

''It means quite a bit,'' he said.

But Fletcher, 28, would have been alone on Thanksgiving had it not been for the outpouring of support from about 150 volunteers.

''I was going to sit at home and eat a TV dinner,'' Fletcher said.

The Second Annual Military Appreciation Free Thanksgiving Dinner hosted by Glen's Barber Shop of Cheyenne is an effort to show the gratitude owed to members of the armed services, organizer Glen Chavez said.

As Chavez looked across the dining room at families gathered around tables, he noted, ''This is going to change Thanksgiving forever. Look at how awesome this is.''

Chavez said he started the event to combat the loneliness that many members of the military feel when they are away from their families during the holidays.

The military serves the United States all year, and Chavez said it feels good to serve the soldiers for one day.

The support that Cheyenne shows for the military surprised Fletcher, who is from Poison, Mont. He said when he returned from Iraq he didn't think he would be greeted with much respect, but now he sees that that there is a lot of support for the soldiers.

Sue Mattingly is not a member of the military, but she still feels a camaraderie with the local soldiers. Mattingly broke down into tears as she talked about losing her dad this year.

After her loss, local soldiers were there for Mattingly, who is a cook at the bowling alley, where many of the soldiers spend time. ''They're like a family to me,'' Mattingly said. ''Even though I'm a civilian, I feel like I've known them all my life.''

Being away from family while serving overseas is just part of being a soldier, Greg Wheeler with the Wyoming Air National Guard said.

''It is what it is,'' Wheeler said. ''You don't join the military and expect to be home every holiday.''

But Wheeler was fortunate to be sitting at a table with his wife, children, mom and dad this Thanksgiving.

Marvin Wolf of Cheyenne remembers spending a Thanksgiving in South Korea during the Korean War.

''We had turkey, shrimp and all the trimmings,'' Wolf said. Wolf agreed that spending Thanksgiving with fellow soldiers is like being with a big family.

This Thanksgiving, Wolf said he is thankful for being an American citizen and for all the opportunities that the United States has offered his family.

Life is all about love and family, Wolf said. ''That's what brings us together,'' he said.

Jennifer Roberts, whose husband is in the Air Force, was enjoying the Thanksgiving meal with her three children. Her husband couldn't attend the dinner because he was scheduled to work on the base in Cheyenne.

But having him at the base here was better than a couple of years ago when he was in Iraq over the holidays.

Her daughter, Brooke Roberts, 12, said, she is grateful to have her dad home this year.

Jennifer Roberts said tears came to her eyes when she arrived at the military Thanksgiving dinner Thursday.

''It makes you feel at home,'' said Roberts, who is from North Carolina.

There were over 50 sponsors for the event. U.S. Sen. Mike Enzi, R-Wyo., also made an appearance.

Chavez said he wants Enzi to take the idea of the military Thanksgiving dinner back to Washington to make it a national event.

Volunteer Terri Clark said, ''It's an honor to serve them. They serve us. So it's the least we can do.''

ADDITIONAL STATEMENTS

CARROLL COLLEGE FIGHTING SAINTS

• Mr. BAUCUS. Madam President, today I wish to recognize an outstanding championship college football team from my home State.

This past Saturday in Rome, GA the Carroll College Fighting Saints claimed another National Association of Intercollegiate Athletics national title with a hard fought 10 to 7 win over rival and fellow NAIA powerhouse the University of Sioux Falls Cougars. The win gives the Fighting Saints an unprecedented sixth national title in the past nine seasons. Coming into the game, Sioux Falls had won 42 games in a row. In fact, their last loss was to Carroll in the 2007 title game.

Carroll College is a private, Catholic college in my hometown of Helena, MT. Carroll boasts an enrollment of about 1,500 students and is known around the country for its award-winning academic and preprofessional programs. The school is particularly strong in premedical, engineering, and nursing programs.

The game Saturday was a hard-fought victory marked by key big plays on offense led by Saints quarterback Gary Wagner and a tough defense that shut down the Cougars high-powered offense. Wagner, a native of Havre, MT, was named the offensive player of the game and scored the Saints' only touchdown on an amazing 83-yard run. The winning points were provided by place kicker Tom Yaremko on a clutch 22 yard field goal in the fourth quarter.

I would like to congratulate head coach Mike Van Diest and his coaching staff, along with Athletic Director Bruce Parker and Doctor Tom Trebon, the president of Carroll College, for their hard work and dedication in

coaching and teaching these fine student athletes. The motto of Carroll College is ''Not for School, but for life.'' Certainly the members of Carroll's football team have learned many life lessons. Coach Van Diest preaches the importance of getting a quality education, the value of teamwork, and the need to give back to the community. Last year 32 Fighting Saints were named to the Frontier Conference All-Academic team.

The Fighting Saints have a dedicated following throughout Montana. Thousands of fans dressed in purple and gold pack into Nelson Stadium on the Carroll campus for each home game. I always look forward to joining them whenever I can. And numerous fans made the long trip to Georgia to cheer on the Fighting Saints in the national title game.

Now another reason that I am so excited about the Saints winning another title is because of a bet I made with my good friend Senator TIM JOHNSON. I put a case of Montana microbrew beer on the line with confidence knowing the Saints would pull out the win, and Senator JOHNSON put up some buffalo steaks with faith that his Cougars would prevail. I am looking forward to enjoying those steaks, and I thank Senator JOHNSON for being such a good sport. I would also like to commend the University of Sioux Falls on a fine football season.

My congratulations and admiration goes out to all the Carroll coaches and players for their success and being great ambassadors for the State of Montana. Their hard work, dedication, and grit truly represent the best that Big Sky country has to offer. I look forward to cheering them on again next season as they go for title No. 7.●

SAN FRANCISCO MUSEUM OF MODERN ART

● Mrs. BOXER. Mr. President, I take this time to recognize the 75th anniversary of the San Francisco Museum of Modern Art, SFMOMA. For 75 years, SFMOMA has engaged and inspired Bay Area residents and visitors alike through first-rate exhibitions, public programs, and special events that enrich and educate the community.

SFMOMA was founded in 1935 by Dr. Grace Louise McVann Morley. At the time of its founding, SFMOMA was the first and only museum on the west coast dedicated solely to modern and contemporary art. Dr. Morley, a visionary and committed leader, went on to serve as the museum's director for 23 years. Under her guidance, SFMOMA showcased innovative and challenging art by both new and established artists, helping to cement San Francisco's position as a leader in the world of modern art.

SFMOMA's leadership has never been limited to art alone but also extends to influencing public policy, establishing avenues to success for local and regional artists and exhibiting work that addresses current political and social movements.

To accommodate the expansion of the museum over the years, artwork was divided into four different departments: architectural and design, media arts, painting and sculpture, and photography. In addition to traditional exhibitions, SFMOMA now offers film festivals, live art performances, and educational programs for children and teens. The museum has also recently developed a new Web site and blog incorporating podcasts, an online tool for browsing the collection, and additional interactive features that make the museum more accessible than ever before.

Last year, SFMOMA entered into an exciting partnership with Doris and Donald Fisher, founders of the Gap, enabling the museum to exhibit the Fishers' personal art collection, known internationally to be one of the most comprehensive and extraordinary collections of modern art in the world. The collection is comprised of more than 1,100 works by 185 20th and 21st century American and European artists.

Today, SFMOMA retains more than 26,000 pieces of art in its permanent collection, including photographs, design objects, sculptures, and other artworks. The museum is currently planning a major expansion to support its ongoing growth and to showcase the Doris and Donald Fisher Collection. The additional space will allow SFMOMA to continue evolving and offering additional programs for the community to learn, engage, and interact with each other and with some of the greatest works of modern art.

Earlier this year, SFMOMA marked its 75th anniversary by offering 3 free days of special programs entitled ''75 Years of Looking Forward.'' As a result, thousands visited the museum, eager to take advantage of the opportunity to honor and celebrate this cherished institution. SFMOMA hosts 800,000 visitors annually and boasts the largest member base of any modern or contemporary art museum in the United States. I commend SFMOMA for serving the community superbly for the past 75 years. Audiences have been captivated and inspired by SFMOMA's collections and special exhibitions, and I wish this venerable cultural institution much success in the decades to come.●

REMEMBERING DR. HELEN MAYNOR SCHEIRBECK

Mrs. HAGAN. Mr. President, last weekend the Nation lost Dr. Helen Maynor Scheirbeck—a great civil rights leader and a passionate advocate for American Indian rights.

Born in Lumberton, NC, as a proud member of the Lumbee Tribe, Dr. Scheirbeck's passing is a true loss for the Lumbee and the greater American Indian community. A champion for American Indian sovereignty, Dr. Scheirbeck worked constantly throughout her incredibly prolific career to enable future generations of Indian leaders to build healthier and better-educated communities.

In her early work on Capitol Hill, Dr. Scheirbeck served on the staff of North Carolina Senator Sam Ervin, then chair of Senate Subcommittee on Constitutional Rights. This work helped lay the foundation for the historic 1968 Indian Bill of Rights that extended constitutional rights and protections to American Indians nationwide. Similarly, Dr. Scheirbeck's efforts to organize the 1962 Capitol Conference on Poverty helped to ensure that Indian communities were a focus of the nationwide war on poverty.

Her commitment to self-determination and individual responsibility is further exemplified by Dr. Scheirbeck's work to empower tribal leaders to govern and educate their communities. Working on behalf of the Carter administration, Dr. Scheirbeck's leadership was instrumental in realigning Federal policies to support Indian sovereignty. Most notably, her efforts helped to ensure the passage of the Indian Education Act of 1975 and the Tribally Controlled Community College Assistance Act of 1978, which have enabled Indian leaders to provide better educational opportunities for current and future generations.

Working throughout her life to provide a forum for Indian leaders in our Nation's Capital, Dr. Scheirbeck was instrumental in establishing the National Museum of the American Indian. As Assistant Director in the early years of the museum, Dr. Scheirbeck guided the Office of Education and its program in cultural arts. In so doing, she sought to bring the experience of the American Indian to the National Mall and to demonstrate the applicability of Indian education models to educators throughout the world.

Finally, much of Dr. Scheirbeck's life was devoted to the cause of recognition for the Lumbee Tribe of North Carolina. Her life's work helped reverse the Federal Government's efforts to terminate relationships with American Indian tribes. Sadly, though, Dr. Scheirbeck's own Lumbee Tribe still bears the burden of this unfortunate policy, and she fought throughout her life to provide the Lumbee with the full recognition that they so deserve. While Dr. Scheirbeck did not live to see this dream become a reality, her life and work have helped to sustain the drive for Lumbee recognition for decades.

Dr. Helen Maynor Scheirbeck's presence and contributions throughout Indian Country are irreplaceable, and her tireless efforts on behalf of American Indians throughout the country will continue to inspire future Indian leaders for generations to come.●

POEM FOR SENATOR ROBERT BYRD

● Mr. LIEBERMAN. Madam President, I ask to have printed in the RECORD the

following poem written in the memory of the late Senator Robert C. Byrd by Albert Carey Caswell.

The poem follows:

FROM SO LITTLE

From so little . . .
Can come so much!
From so humble beginnings . . .
Can, come as such . . .
Greatness, that only a heart can bring . . .
As from life's mistakes . . .
But, comes life's lessons . . . time and time again such blessings!
For only in open hearts, will so ring!
In the kind, that dares great men to dream great dreams!
Who come from almost nothing!
To grow and involve, all into a many splendid thing!
As from such humble beginnings, as but comes such things!
From a coal miners father, and his dreams . . .
A child, who would bless this our Nation all in his being!
A giant, who upon the Senate floor . . . his thundering voice would so ring!
Who fell in love, with one of our Forefathers greatest dreams!
The Great American Experiment, called Democracy of all things!
Democracy, and The United States Senate . . . all in this wing!
And, that from so little . What time and faith and courage, can so bring!
A man who so honored tradition, in all his fiber and all his being . . .
All in his great intuition, knowing that these were but time tested things . . .
But, so sacred and so essential . . . but to our Nation's very being!
Like, a mother cub . . . Protecting her young!
With all of his heart and soul, he would not let this great body be undone!
And that some things you must not, and should not change!
Time Tested, that for this our Nation to thrive must so remain!
For he was a visionary, a scholar, and a student of the past, and legislation history to last!
And with his very heart and soul, he so protected our forefathers great dream of gold!
For he so wisely knew, that some things no greater can be!
Never mess with perfection you see!
So with each new and succeeding year, a champion for The Senate grew up so here!
As this was but, his second greatest love so clear!
His first, his beloved Erma, a marriage of seventy years . . .
As This Master of Senate, so soon appeared . . . the kind even Webster would revere!
And now, into the next world Robert you have gone, but ever your memory will live on!
As but a lesson to us all . . .
As from what so little, can grow so tall!
A Champion of The United States Senate, Robert Byrd . . .
As now up in Heaven, your voice is heard!●

TRIBUTE TO WILLIAMS S. GREENBERG

● Mr. MENENDEZ. Mr. President, I would like to recognize Brigadier General (Retired) William S. Greenberg, one of my constituents, who was honored on October 14, 2010, with the Rutgers Law School Alumni Association Public Service Award. Bill Greenberg has a long association with Rutgers, the State University of New Jersey. He is a member of the Newark law class of 1967. In 1966, as president of the Student Bar Association, he gave a memorable speech accepting the new law school building on behalf of the student body. He was joined in that ceremony by then-Chief Justice of the United States Earl Warren.

Following his graduation from Rutgers, he enlisted in the 5th Squadron of the 117th Cavalry of the 50th Armored Division, the Jersey Blues, and was selected as the outstanding enlisted cavalry trooper of the training cycle while at Fort Knox. Returning to New Jersey, he served as law secretary to Judge Robert A. Matthews, a Rutgers Law School alumnus, then sitting as a judge of the New Jersey Superior Court, Chancery Division, in Hudson County, and later as presiding judge of the Superior Court, Appellate Division.

Bill Greenberg began a long and distinguished career as a lawyer, bar leader, and soldier, author, public servant, and benefactor with McCarter & English, New Jersey's oldest and largest law firm and one of the region's most respected, where Bill is a senior partner today.

Throughout his career, his connection to Rutgers has remained strong, as exemplified by his support of the Justice Morris Pashman Scholarship Fund. He was chosen one of four commissioners of the New Jersey State Commission of Investigation by his Rutgers Law classmate, the late Alan J. Karcher, then-speaker of the New Jersey General Assembly. During a public-service leave from McCarter & English, he served as assistant counsel to Gov. Richard J. Hughes, himself a graduate of Rutgers Law School. He represented the Governor in an important case involving senatorial courtesy before the New Jersey Supreme Court. This was the first of many important cases Bill Greenberg has argued. He has more than 100 published opinions to his credit. During his more than 40 years of private practice, he has founded his own law firm, served in many public positions, has been a noted litigator and bar association leader, as well as an author and benefactor of many educational and charitable institutions.

He served as prosecutor of Princeton. He was a commissioner of the New Jersey State Scholarship Commission. He was appointed by the Supreme Court of New Jersey to the Mercer County Ethics Committee and the Civil Practice Committee. He also served as a member of the New Jersey Supreme Court Committee on the admission of foreign attorneys, a groundbreaking effort by the New Jersey Supreme Court to permit Cuban lawyers who had emigrated to New Jersey to be permitted to take the bar examinations.

He was a trustee of both the New Jersey State Bar Association and the New Jersey State Bar Foundation. He served as chair of the Military Law Section of the New Jersey State Bar Association. In addition to holding many offices in the Association of Trial Lawyers of America, New Jersey—the New Jersey Association for Justice—he served as its president. He is an author and frequent lecturer on many litigation matters, and for over 20 years he has been the author and editor of the Civil Trial Handbook, Volume 47 of the New Jersey Practice Series, now in its fifth edition.

Civic minded and charitable, Bill Greenberg serves as a vice president of the Thanks To Scandinavia Educational and Charitable Trust of New York, which gives educational scholarships to recognize the efforts made by the Scandinavian countries to save Jews during World War II. He is chairman of the Mary Sachs Charitable Trust in Harrisburg, PA, established by his great aunt, which has over the past 50 years distributed millions of dollars in scholarships and other aid to educational and charitable organizations in central Pennsylvania. He and his wife, the former Betty Kaufmann Wolf of Pittsburgh, have established the Dr. Peter Scardino Trust at the Memorial Sloan Kettering Cancer Center to aid needy cancer patients. In addition, he and his wife have established endowed scholarships at Johns Hopkins and Brown Universities for needy students and have contributed substantially to the Institute for Advanced Study in Princeton.

He recently received the Distinguished Alumnus Award from Johns Hopkins and serves on its undergraduate advisory board. In December 2009, he was selected Lawyer of the Year by the New Jersey Law Journal, the leading law publication of record in our State. This year, he received the Major General Howard Louderback Award for lifetime service from the New Jersey Committee of the Department of Defense Committee for Employer Support of the Guard and Reserve.

I was pleased to recommend Bill Greenberg to the White House to be Chairman of the Reserve Forces Policy Board. He was selected by Secretary Gates for that important position in August 2009 and reappointed in August 2010. This board, created by Congress in 1952, is the principal policy adviser to the Secretary of Defense for Reserve component matters. I was pleased to make this recommendation because of General Greenberg's background of 27 years of military service in the Reserve components as an enlisted cavalry trooper, a member of the Judge Advocate General's Corps, and as a flag officer. More importantly, he established the Military Legal Assistance Program of the New Jersey State Bar Association for wounded or injured reservists called to duty after September 11, 2001. He personally and with members of his law firm, McCarter & English, has represented over 50 individual soldiers at Walter Reed in obtaining adequate

military and veterans compensation. He is widely recognized as an expert in the field as well as a selfless advocate for individual soldiers and veterans in their legal struggles.

To those of us who are privileged to know Bill Greenberg personally, he brings passion, energy, hard work, patriotism, and dedication to all that he undertakes. These qualities have been recognized by his colleagues in the legal profession and in the Pentagon, where he has served with distinction and has consistently put foremost the interests of the individual reservist and the veteran. The American soldier has no greater friend than Bill Greenberg.●

RECOGNIZING AGREN APPLIANCE

● Ms. SNOWE. Mr. President, small businesses are the engine of our economy. There are literally millions of unique stories about how these companies had developed since they opened their doors. Some of the most impressive businesses are family-owned entities that start with a handful of workers and a commitment to filling a niche in their city or town. Today I recognize Agren Appliance, a company that started with the basics and has blossomed into a familiar name to residents of Lewiston-Auburn, ME, for over 40 years.

The Agren family began serving the community in 1969, when they operated two repair trucks to fix appliances for families and individuals throughout the greater Lewiston-Auburn area. Their only technology was a rotary telephone to receive calls from those requiring assistance. Over time, the family developed a reputation for its reliability, gaining regular customers and parlaying that recognition into future success.

As a result of its strong and growing standing, Agren opened its first brick-and-mortar store in Auburn in 1978, carrying the Whirlpool brand of products. Over time, the company further expanded its reach, opening branches in the coastal town of Brunswick in 1983, as well as south Paris, in western Maine, in 1986. Later, Agren Appliance opened stores in south Portland and midcoast Maine, covering a large swath of the State's population. And on Monday, Agren Appliance moved from its former south Paris location to a newer, larger, 25,000-square-foot space in the neighboring town of Norway. The company has been recognized as one of the Nation's top 100 appliance retailers, an impressive feat in such a competitive market.

Agren now offers its customers a variety of products and brands—including televisions, beds, mattresses, and dining room sets. Nonetheless, each store is still a one-stop shop for all appliance needs, from dishwashers and refrigerators, to laundry machines and dryers. And the business stays true to its roots, boasting Maine's largest independent appliance repair team, as well as a fleet of repair trucks.

Furthermore, Agren Appliance is still family-owned and remains an integral part of the communities which it serves. The company frequently makes donations to organizations across the State, often providing gift certificates or various small appliances for silent auctions to benefit those in need. Additionally, at certain locations, Agren posts messages on their large electronic outdoor signs, advertising upcoming events and fundraising efforts from various members of the community—a generous act that helps promote worthwhile occasions and causes.

With five stores spread across the southern part of the State, Agren has developed from a small-town appliance repair business into a trusted name for appliance and furniture needs. I am always impressed by the ingenuity of small businesses like Agren, which has witnessed marked growth because of a strong work ethic and dedication to knowing and serving the community. I thank all of the company's employees for their hard work, and wish them much success in the years to come.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Health, Education, Labor, and Pensions.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. INOUYE) reported that on December 21, 2010, he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. INOUYE) reported that he had signed the following enrolled bills, which were previously signed by the Speaker of the House:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

At 1:37 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 bill, in which it requests the concurrence of the Senate:

H.R. 6547. An act to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 6523) to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The message further announced that pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002) as amended, the Minority Leader reappoints the following member on the part of the House of Representatives to the United States-China Economic and Security Review Commission: Mr. Larry Wortzel, effective January 1, 2011.

The message also announced that pursuant to section 235 of the Tribal Law and Order Act (Public Law 111–211), the Minority Leader appoints the following member on the part of the House of Representatives to the Indian Law and Order Commission: Mr. Thomas Gede of San Francisco, California.

The message further announced that pursuant to section 5605 of the Patient Protection and Affordable Care Act (Public Law 111–148), the Minority Leader appoints the following members on the part of the House of Representatives to the Commission on Key National Indicators: Mr. Marcus Peacock of Washington, D.C., and Mr. Tomas J. Philipson of Chicago, Illinois.

ENROLLED BILLS SIGNED

At 4:01 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3243. An act to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

S. 3592. An act to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the ''First Lieutenant Robert Wilson Collins Post Office Building''.

H.R. 4445. An act to amend Public Law 95–232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico.

H.R. 5470. An act to exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy

efficiency standards under the Energy Policy and Conservation Act.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. BAYH).

ENROLLED BILLS SIGNED

At 4:27 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 5116. An act to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

H.R. 6398. An act to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. BAYH).

At 6:44 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 bill, in which it requests the concurrence of the Senate:

H.R. 6560. An act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 3481. An act to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

S. 3903. An act to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo.

S. 4036. An act to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury.

S. 4058. An act to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosures.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 372. An act to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 67. Concurrent resolution celebrating 130 years of United States-Romanian diplomatic relations, congratulating the Romanian people on their achievements as a great nation, and reaffirming the deep bonds of trust and values between the United States and Romania, a trusted and most valued ally.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 847) to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 5901) to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investment in United States real property interest, and for other purposes.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 6517) to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

MEASURES REFERRED

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

H.R. 5367. An act to amend title 11, District of Columbia Official Code, to revise certain administrative authorities of the District of Columbia courts, to authorize the District of Columbia Public Defender Service to provide professional liability insurance for officers and employees of the Service for claims relating to services furnished within the scope of employment with the Service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5446. An act to designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the ''Harry T. and Harriette Moore Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5493. An act to provide for the furnishing of statues by the District of Columbia and territories and possessions of the United States for display in Statuary Hall in the United States Capitol; to the Committee on Rules and Administration.

H.R. 5702. An act to amend the District of Columbia Home Rule Act to reduce the waiting period for holding special elections to fill vacancies in local offices in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6205. An act to designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the ''Private Isaac T. Cortes Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6397. An act to amend section 101(a)(35) of the Immigration and Nationality Act to provide for a marriage for which the parties are not physically in the presence of each other due to service abroad in the Armed Forces of the United States; to the Committee on the Judiciary .

H.R. 6494. An act to amend the National Defense Authorization Act for Fiscal Year 2010 to improve the Littoral Combat Ship program of the Navy; to the Committee on Armed Services.

H.R. 6540. An act to require the Secretary of Defense, in awarding a contract for the KC–X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess; to the Committee on Armed Services.

H.R. 6547. An act to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees; to the Committee on Health, Education, Labor, and Pensions.

H.R. 6560. An act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–8582. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)'' (FRL No. 8857-5) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8583. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Flutolanil; Pesticide Tolerances'' (FRL No. 8855-7) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8584. A joint communication from the Under Secretary of Defense (Personnel and Readiness) and the Under Secretary of Defense (Policy), transmitting, pursuant to law, a report entitled ''The Power of the People: Building an Integrated National Security Professional System for the 21st Century''; to the Committee on Armed Services.

EC–8585. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to India; to the Committee on Banking, Housing, and Urban Affairs.

EC–8586. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC–8587. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Nonattainment and Reclassification of the Dallas/Fort Worth 1997 8-hour Ozone Nonattainment Area; Texas'' (FRL No. 9240-8) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC–8588. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Mississippi; Prevention of Significant Deterioration Rules: Nitrogen Oxides as a Precursor to Ozone'' (FRL No. 9241-1) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC–8589. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel

Standard Program'' (FRL No. 9241-4) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC–8590. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New Jersey; 8-hour Ozone Control Measures'' (FRL No. 9214-4) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC–8591. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Lead Ambient Air Monitoring Requirements'' (FRL No. 9241-8) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC–8592. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Environmental Protection Agency Implementation of OMB Guidance on Drug-Free Workplace Requirements'' (FRL No. 9242-2) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC–8593. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Emissions Banking and Trading of Allowances Program'' (FRL No. 9243-1) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8594. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Sulfur Dioxide SIP Revision for Marathon Petroleum St. Paul Park'' (FRL No. 9243-3) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8595. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to Ambient Air Quality Standards for Particulate Matter'' (FRL No. 9243-5) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8596. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County's Adoption of Control Techniques Guidelines for Large Appliance and Metal Furniture; Flat Wood Paneling; Paper, Film, and Foil Surface Coating Processes; and Revisions to Definitions and an Existing Regulation'' (FRL No. 9243-6) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8597. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Regulation Deferring the Reporting Date for Certain Data Elements Required Under the Mandatory Reporting of Greenhouse Gases Rule'' (FRL No. 9242-7) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8598. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Update to Materials Incorporated by Reference'' (FRL No. 9240-1) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8599. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category; and Addition to Source Category List for Standards'' (FRL No. 9242-3) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8600. A communication from the Director of Congressional Affairs , Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation'' (RIN3150-AI47) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8601. A communication from the Director of Congressional Affairs , Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''General Design Guide for Ventilation Systems of Plutonium Processing and Fuel Fabrication Plants'' (Regulatory Guide 3.12, Revision 1) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8602. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Pressure-Sensitive and Tamper-Indicating Device Seals for Material Control and Accounting of Special Nuclear Material'' (Regulatory Guide 5.80) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8603. A communication from the Director of Congressional Affairs , Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Notice of Availability of Model Application and Safety Evaluation for Plant-Specific Adoption of TSTF-514, Revision 3 'Revise BWR Operability Requirements and Actions for RCS Leaking Instrumentation'" (NUREG-1433 and NUREG-1434) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC–8604. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imazosulfuron; Pesticide Tolerances'' (FRL No. 8857-4) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8605. A communication from the Director of the Legislative Affairs Division, Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Grassland Reserve Program, Final Rule'' (RIN0578-AA53) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8606. A communication from the Administrator, Rural Housing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Continuous Construction—Permanent Loan Guarantees Under the Section 538 Guaranteed Rural Rental Housing Program'' ((7 CFR Part 3565)(RIN0575-AC80)) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8607. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Department of the Air Force and was assigned case number 08-02; to the Committee on Appropriations.

EC–8608. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Department of the Air Force and was assigned case number 08-03; to the Committee on Appropriations.

EC–8609. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Program Acquisition Unit Cost for the Chemical Demilitarization-Assembled Chemical Weapons Alternative (ACWA) Program exceeding the Acquisition Program Baseline values by more than 25 percent; to the Committee on Armed Services.

EC–8610. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Frank G. Klotz, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–8611. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General James H. Pillsbury, United States Air Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–8612. A communication from the Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Extension of Filing Accommodation for Static Pool Information in Filings with Respect to Asset-Backed Securities'' (RIN3235-AK70) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–8613. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13405 with respect to Belarus; to the Committee on Banking, Housing, and Urban Affairs.

EC–8614. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Montana Regulatory Program'' (Docket No. MT-029-FOR) received in the Office of the President of the

Senate on December 22, 2010; to the Committee on Energy and Natural Resources.

EC–8615. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''North Dakota Regulatory Program'' (Docket No. ND-051-FOR) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Energy and Natural Resources.

EC–8616. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Texas Regulatory Program'' (Docket No. TX-059-FOR) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Energy and Natural Resources.

EC–8617. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Special Rules Relating to Funding Relief for Single-Employer Pension Plans under PRA 2010'' (Notice 2011-3) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Finance.

EC–8618. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—January 2011'' (Rev. Rul. 2011-2) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Finance.

EC–8619. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rules for Group Trusts'' (Rev. Rul. 2011-1) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Finance.

EC–8620. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Federal Government Participation in the Automated Clearing House'' (RIN1510-AB24) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC–8621. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Management of Federal Agency Disbursements'' (RIN1510-AB26) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC–8622. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2010-0176—2010-0189); to the Committee on Foreign Relations.

EC–8623. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services for the manufacture in Saudi Arabia of RR-170 Chaff Cartridges, RR-180 Chaff Cartridges, MJU-7A/B Flare Cartridges, MJU-10/B Flare Cartridges and M206 Flare Cartridges in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–8624. A communication from the Assistant General Counsel for Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Supplemental Priorities for Discretionary Grant Programs'' (RIN1894-AA00) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–8625. A communication from the Management and Program Analyst, Citizenship and Immigration Services, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''E-2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands with Long-Term Investor Status'' (RIN1615-AB75) received in the Office of the President of the Senate on December 22, 2010; to the Committee on the Judiciary.

EC–8626. A communication from the Secretary General of the Inter-Parliamentary Union, transmitting, a report relative to the Chiapas Declaration; to the Committee on Foreign Relations.

EC–8627. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the South Atlantic States; Emergency Rule to Delay Effectiveness of the Snapper-Grouper Area Closure'' (RIN0648-BA47) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8628. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Herring Fishery; Temporary Removal of 2,000-lb (907.2-kg) Herring Trip Limit in Atlantic Herring Management Area 1A'' (RIN0648-XA053) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8629. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Herring Fishery; Temporary Removal of 2,000-lb (907.2-kg) Herring Trip Limit in Atlantic Herring Management Area 1A'' (RIN0648-XA039) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8630. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Non-Sandbar Large Coastal Shark Fishery in the Atlantic Region'' (RIN0648-XA052) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8631. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions No. 12 and No. 13'' (RIN0648-XY31) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8632. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 m) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648-XA058) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8633. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Emergency Fisheries Closure in the Gulf of Mexico Due to the Deepwater Horizon MC252 Oil Spill; Amendment 4'' (RIN0648-AY90) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8634. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Emergency Fisheries Closure in the Gulf of Mexico Due to the Deepwater Horizon MC252 Oil Spill; Amendment 3'' (RIN0648-AY90) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8635. A communication from the Chief Judge, Court of Appeals of Maryland, transmitting, a report relative to Interest on Attorneys Trust Accounts; to the Committee on Banking, Housing, and Urban Affairs .

EC–8636. A communication from the Deputy Assistant Secretary for Import Administration, Foreign-Trade Zones Board, Department of Commerce, transmitting, pursuant to law, an annual report on the Activities of the Foreign-Trade Zones Board, for fiscal year 2009; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, without amendment:

S. 3688. A bill to establish an international professional exchange program, and for other purposes (Rept. No. 111–383).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation:

Report to accompany S. 773, a bill to ensure the continued free flow of commerce within the United States and with its global trading partners through secure cyber communications, to provide for the continued development and exploitation of the Internet and intranet communications for such purposes, to provide for the development of a cadre of information technology specialists to improve and maintain effective cybersecurity defenses against disruption, and for other purposes (Rept. No. 111–384).

Report to accompany S. 2764, a bill to reauthorize the Satellite Home Viewer Extension and Reuathorization Act of 2004, and for other purposes (Rept. No. 111–385).

Report to accompany S. 3304, a bill to increase the access of persons with disabilities to modern communications, and for other purposes (Rept. No. 111–386).

Report to accompany S. 1274, a bill to amend title 46, United States Code, to ensure

that the prohibition on disclosure of maritime transportation security information is not used inappropriately to shield certain other information from public disclosure, and for other purposes (Rept. No. 111–387).

Report to accompany S. 2870, a bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes (Rept. No. 111–388).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted on December 22, 2010:

By Mr. KERRY, from the Committee on Foreign Relations:

[Treaty Doc. 110–23 Investment Treaty with Rwanda with one declaration (Ex. Rept. 111–8)]

The text of the committee-recommended resolution of advice and consent to ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a declaration.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of Rwanda Concerning the Encouragement and Reciprocal Protection of Investment, signed at Kigali on February 19, 2008 (Treaty Doc. 110–23), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

Articles 3 through 10 and other provisions that qualify or create exceptions to these Articles are self-executing. With the exception of these Articles, the Treaty is not self-executing. None of the provisions in this Treaty confers a private right of action.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MERKLEY (for himself, Mr. JOHNSON, Mr. CORKER, and Mr. ENZI):

S. 4052. A bill to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 4053. A bill to reauthorize and improve the SBIR and STTR programs, and for other purposes; considered and passed.

By Mr. SPECTER:

S. 4054. A bill to restore the law governing pleading and pleading motions that existed before the decisions of the Supreme Court of the United States in Bell Atlantic v. Twombly, 550 U.S. 544 (2007), and Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009); to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mr. CASEY, Mr. BINGAMAN, Mrs. HAGAN, and Ms. STABENOW):

S. 4055. A bill to extend trade adjustment assistance, and for other purposes; to the Committee on Finance.

By Mr. CASEY:

S. 4056. A bill to amend the Internal Revenue Code of 1986 to permit the disclosure of certain tax return information for the purposes of missing or exploited children investigations; to the Committee on Finance.

By Mr. SANDERS (for himself and Mr. LEAHY):

S. 4057. A bill to provide for an earlier start for State health care coverage innovation waivers under the Patient Protection and Affordable Care Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 4058. A bill to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure; considered and passed.

By Mr. MENENDEZ:

S. 4059. A bill to authorize the Department of House and Urban Development to transform neighborhoods of extreme poverty into sustainable, mixed-income neighborhoods with access to economic opportunities, by revitalizing severely distressed housing, and investing and leveraging investments in well-functioning services, educational opportunities, public assets, public transportation, and improved access to jobs; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mr. BENNETT):

S. Res. 705. A resolution providing for a technical correction to S. Res. 700; considered and agreed to.

By Mr. REID (for himself, Mr. MCCONNELL, Mr. KERRY, and Mr. KYL):

S. Res. 706. A resolution extending the authority for the Senate National Security Working Group; considered and agreed to.

By Mr. REID:

S. Res. 707. A resolution honoring Lula Davis; considered and agreed to.

ADDITIONAL COSPONSORS

S. 3424

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

AMENDMENT NO. 4892

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 4892 proposed to Treaty Doc. 111–5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4904

At the request of Mr. CORKER, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Massachusetts (Mr. BROWN), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Arizona (Mr. MCCAIN), the Senator from Nebraska (Mr. JOHANNS), the Senator from Michigan (Mr. LEVIN), the Senator from Arizona (Mr. KYL), the Senator from Indiana (Mr. BAYH), and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 4904 proposed to Treaty Doc. 111–5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

At the request of Mr. LUGAR, his name was added as a cosponsor of amendment No. 4904 proposed to Treaty Doc. 111–5, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 4054. A bill to restore the law governing pleading and pleading motions that existed before the decisions of the Supreme Court of the United States in Bell Atlantic v. Twombly, 550 U.S. 544 (2007), and Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009); to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, last year I introduced the Notice Pleading Restoration Act of 2009, H.R. 1504. As I explained in my accompanying floor statement, my objective was to restore the pleading standard that had governed federal civil practice if not since the Federal Rules of Procedure originally took effect in 1938, then at very least since the Supreme Court decided Conley v. Gibson in 1957. Several months earlier the Supreme Court had issued the second of two controversial decisions—Bell Atlantic Corp. v. Twombly, 2007, and Iqbal v. Ashcroft, 2009—in which it had replaced that standard with a heightened pleading standard that, not least among its several flaws, was plainly inconsistent with the original meaning of the Federal Rules. My concern was not only that the Court had closed the courthouse doors to plaintiffs with meritorious claims and limited the private enforcement of public law, but also that, in yet another of its recent incursions on Congress's lawmaking powers, it had end-run the process for amending the Rules established by the Rules Enabling Act of 1934. That process includes, as its last step, Congressional approval of any amendment.

While there was widespread agreement among the country's leading academic proceduralists on the need for legislation overruling the Court's decisions, there was much less agreement among them as to what, exactly, the

legislation should say. I chose in S. 1504 to incorporate the pleading standard set forth in Conley. A companion House bill introduced after S. 1504, H.R. 4115, took a somewhat different approach. Various commentators proposed yet other approaches.

After a hearing on the legislation before the Judiciary Committee, I consulted through my general counsel, Matthew L. Wiener, with leading academic proceduralists and several distinguished practicing lawyers with an eye toward offering a possible substitute amendment. The conclusion I soon drew was that Congress must indeed overrule Twombly and Iqbal but without (as the Court had done) prescribing a pleading standard outside the rulemaking process established by the Enabling Act. The best way to do so, I concluded, was simply to draft legislation requiring adherence to the Supreme Court's pre-Twombly decisions interpreting the applicable federal rules unless and until they are amended in accordance with the Enabling Act. The bill I have introduced today, the Notice Pleading Restoration Act of 2010, takes just that approach. I urge the next Congress to take up this bill when it convenes in January.

For their wise counsel in helping me work through the issues presented by the legislation, I would like to acknowledge and thank the following lawyers, most of them professors of civil procedure: Allen D. Black, a partner at Fine, Kaplan & Black, R.P.C.; John S. Beckerman, Professor of Law, Rutgers University School of Law-Camden; Stephen B. Burbank, the David Berger Professor for the Administration of Justice at the University of Pennsylvania Law School; Sean Carter, a shareholder of Cozen O'Connor; Jonathan W. Cuneo, a partner at Cuneo Gilbert & LaDuca LLP and a former counsel to the House Judiciary Committee; Michael C. Dorf, the Robert S. Stevens Professor of Law at Cornell University School of Law; William N. Eskridge, Jr., the John A. Garver Professor of Jurisprudence at Yale Law School; Suzette M. Malveaux, Associate Professor of Law, Columbus School of Law, Catholic University of America; Arthur R. Miller, University Professor at the New York University School of Law; John Payton, President and Director-Counsel, NAACP Legal Defense Fund; Alexander Reinert, an Associate Professor of Law at the Benjamin Cardozo School of Law; David L. Shapiro, the William Nelson Cromwell Professor of Law, Emeritus, at Harvard Law School; Stephen N. Subrin, Professor of Law, Northeastern University School of Law; and Tobias Barrington Wolff, a Professor of Law at the University of Pennsylvania Law School.

Professor Burbank deserves special acknowledgment for first suggesting and explaining the general approach underlying my bill during his testimony before the Senate Judiciary Committee on December 2, 2009, and special thanks for lending my staff so much of his valuable time during the last year-and-a-half. I commend his unimpeachable testimony to my colleagues and their staffs.

Not all of these lawyers, I must emphasize in closing, endorse my legislation, and none of them of course is responsible for its particulars. Most of them submitted prepared statements for the record of the December 2 hearing, and their individual views can be found there.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 705—PROVIDING FOR A TECHNICAL CORRECTION TO S. RES. 700

Mr. SCHUMER (for himself and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 705

Resolved,

SECTION 1. TECHNICAL CORRECTION.

Senate Resolution 700, 111th Congress, agreed to December 10, 2010, is amended in section 3(b)—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

SENATE RESOLUTION 706—EXTENDING THE AUTHORITY FOR THE SENATE NATIONAL SECURITY WORKING GROUP

Mr. REID (for himself, Mr. MCCONNELL, Mr. KERRY, and Mr. KYL) submitted the following resolution; which was considered and agreed to:

S. RES. 706

Resolved, That Senate Resolution 105 of the One Hundred First Congress, 1st session (agreed to on April 13, 1989), as amended by Senate Resolution 149 of the One Hundred Third Congress, 1st session (agreed to on October 5, 1993), as further amended by Senate Resolution 75 of the One Hundred Sixth Congress, 1st session (agreed to on March 25, 1999), as further amended by Senate Resolution 383 of the One Hundred Sixth Congress, 2d session (agreed to on October 27, 2000), as further amended by Senate Resolution 355 of the One Hundred Seventh Congress, 2d session (agreed to on November 13, 2002), as further amended by Senate Resolution 480 of the One Hundred Eighth Congress, 2d session (agreed to November 20, 2004), as further amended by Senate Resolution 625 of the One Hundred Ninth Congress, 2d Session (agreed to on December 6, 2006), and as further amended by Senate Resolution 715 of the One Hundred Tenth Congress, 2d session (agreed to November 20, 2008), is further amended in section 4 by striking ''2010'' and inserting ''2012''.

SENATE RESOLUTION 707—HONORING LULA DAVIS

Mr. REID submitted the following resolution; which was considered and agreed to:

S. RES. 707

Whereas Lula Davis, the Secretary for the Majority, will be retiring at the end of the 111th Congress, after a long and distinguished career;

Whereas Lula Davis was first elected as Assistant Democratic Secretary in 1997, and she was the first woman ever to hold that position;

Whereas Lula Davis was elected to be the Secretary for the Majority at the beginning of the 111th Congress, the first African American to serve in this position, and during the 111th Congress she has expertly tackled one of the toughest jobs in politics;

Whereas throughout her time in the Senate, Lula Davis has played a major role in managing the debate and passage of many significant pieces of legislation;

Whereas many legislative accomplishments over the years would not have happened without the leadership of Lula Davis;

Whereas Lula Davis lived in rural Louisiana, and worked as a teacher and guidance counselor;

Whereas Lula Davis remains committed to children in our community, founding and continuing to run a nonprofit mentoring and charitable organization called ''Leadership Cares,'' which provides holiday meals to more than 650 families annually;

Whereas Lula Davis has encouraged many of her fellow Senate staff to volunteer alongside her family and friends to make a difference for those in need;

Whereas Lula Davis started her Senate career as a legislative aide to her home-state Senator, Russell Long, and went on to serve in almost every position on the floor staff, including office assistant, floor assistant, chief floor assistant, Assistant Secretary, and Secretary;

Whereas Lula Davis is a master of the complex formal and informal rules under which the Senate operates;

Whereas Lula Davis has consistently provided thoughtful and reliable advice to both Democratic and Republican leadership and all members of the Senate;

Whereas Lula Davis is loyal to the Senate and to Senators, and respects the traditions that make this body great;

Whereas the Senate has tremendous respect for Lula Davis and her hard work, and deeply appreciates her enormous contributions to the Senate and to the United States: Now, therefore, be it

Resolved, That the Senate expresses its deepest thanks to Lula Davis for her many years of outstanding service to the United States Senate and to the United States of America.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4921. Mr. LEVIN (for himself and Mr. MCCAIN) proposed an amendment to the bill H.R. 6523, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SA 4922. Mr. KIRK submitted an amendment intended to be proposed to amendment SA 4904 proposed by Mr. CORKER to Treaty Doc. 111—5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

SA 4923. Mr. REID (for Mrs. GILLIBRAND (for herself and Mr. SCHUMER)) proposed an amendment to the bill H.R. 847, to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in

New York City on September 11, 2001, and for other purposes.

SA 4924. Mr. BROWN of Ohio (for himself, Mr. CASEY, Mr. BAUCUS, Mr. MCCAIN, and Mr. KYL) proposed an amendment to the bill H.R. 6517, to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

TEXT OF AMENDMENTS

SA 4921. Mr. LEVIN (for himself and Mr. MCCAIN) proposed an amendment to the bill H.R. 6523, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

Strike title XVII and the corresponding table of contents on page 18.

SA 4922. Mr. KIRK submitted an amendment intended to be proposed to amendment SA 4904 proposed by Mr. CORKER to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; as follows:

On page 2, after line 19, add the following:

(2) MISSILE DEFENSE.—It is the understanding of the United States that the advice and consent of the Senate to the New START Treaty is subject to the understanding, which shall be transmitted to the Russian Federation at the time of the exchange of instruments of ratification, stated in the letter transmitted by President Barack Obama to the Majority Leader of the United States Senate on December 18, 2010, the text of which is as follows:

THE WHITE HOUSE,
Washington, December 18, 2010.

Hon. HARRY M. REID,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID: As the Senate considers the New START Treaty, I want to share with you my views on the issue of missile defense, which has been the subject of much debate in the Senate's review of the Treaty.

Pursuant to the National Missile Defense Act of 1999 (Public Law 106–38), it has long been the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate. Thirty ground-based interceptors based at Fort Greely, Alaska, and Vandenberg Air Force Base, California, are now defending the nation. All United States missile defense programs—including all phases of the European Phased Adaptive Approach to missile defense (EPAA) and programs to defend United States deployed forces, allies, and partners against regional threats—are consistent with this policy.

The New START Treaty places no limitations on the development or deployment of our missile defense programs. As the NATO Summit meeting in Lisbon last month underscored, we are proceeding apace with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by the proliferation of ballistic missiles. The final phase of the system will also augment our current defenses against intercontinental ballistic missiles from Iran targeted against the United States.

All NATO allies agreed in Lisbon that the growing threat of missile proliferation, and our Article 5 commitment of collective defense, requires that the Alliance develop a territorial missile defense capability. The Alliance further agreed that the EPAA, which I announced in September 2009, will be a crucial contribution to this capability. Starting in 2011, we will begin deploying the first phase of the EPAA, to protect large parts of southern Europe from short- and medium-range ballistic missile threats. In subsequent phases, we will deploy longer-range and more effective land-based Standard Missile–3 (SM–3) interceptors in Romania and Poland to protect Europe against medium- and intermediate-range ballistic missiles. In the final phase, planned for the end of the decade, further upgrades of the SM–3 interceptor will provide an ascent-phase intercept capability to augment our defense of NATO European territory, as well as that of the United States, against future threats of ICBMs launched from Iran.

The Lisbon decisions represent an historic achievement, making clear that all. NATO allies believe we need an effective territorial missile defense to defend against the threats we face now and in the future., The EPAA represents the right response. At Lisbon, the Alliance also invited the Russian Federation to cooperate on missile defense, which could lead to adding Russian capabilities to those deployed by NATO to enhance our common security against common threats. The Lisbon Summit thus demonstrated that the Alliance's missile defenses can be strengthened by improving NATO-Russian relations.

This comes even as we have made clear that the system we intend to pursue with Russia will not be a joint system, and it will not in any way limit United States' or NATO's missile defense capabilities. Effective cooperation with Russia could enhance the overall effectiveness and efficiency of our combined territorial missile defenses, and at the same time provide Russia with greater security. Irrespective of how cooperation with Russia develops, the Alliance alone bears responsibility for defending NATO's members, consistent with our Treaty obligations for collective defense. The EPAA and NATO's territorial missile defense capability will allow us to do that.

In signing the New START Treaty, the Russian Federation issued a statement that expressed its view that the extraordinary events referred to in Article XIV of the Treaty include a "build-up in the missile defense capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear potential of the Russian Federation." Article XIV(3), as you know, gives each Party the right to withdraw from the Treaty if it believes its supreme interests are jeopardized.

The United States did not and does not agree with the Russian statement, We believe that the continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation, and have provided policy and technical explanations to Russia on why we believe that to be the case. Although the United States cannot circumscribe Russia's sovereign rights under Article XIV(3), we believe that the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty.

Regardless of Russia's actions in this regard, as long as I am President, and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and partners. My Administration plans to deploy all four phases of the EPAA. While advances of technology or future changes in the threat could modify the details or timing of the later phases of the EPAA—one reason this approach is called "adaptive"—I will take every action available to me to support the deployment of all four phases.

Sincerely,

BARACK OBAMA.

SA 4923. Mr. REID (for Mrs. GILLIBRAND (for herself and Mr. SCHUMER)) proposed an amendment to the bill H.R. 847, to amend the Public Health Service Act to extend and improve protections and services to individual directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "James Zadroga 9/11 Health and Compensation Act of 2010".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

Sec. 101. World Trade Center Health Program.

"TITLE XXXIII—WORLD TRADE CENTER HEALTH PROGRAM

"Subtitle A—Establishment of Program; Advisory Committee

"Sec. 3301. Establishment of World Trade Center Health Program.
"Sec. 3302. WTC Health Program Scientific/Technical Advisory Committee; WTC Health Program Steering Committees.
"Sec. 3303. Education and outreach.
"Sec. 3304. Uniform data collection and analysis.
"Sec. 3305. Clinical Centers of Excellence and Data Centers.
"Sec. 3306. Definitions.

"Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

"PART 1—WTC RESPONDERS

"Sec. 3311. Identification of WTC responders and provision of WTC-related monitoring services.
"Sec. 3312. Treatment of enrolled WTC responders for WTC-related health conditions.
"Sec. 3313. National arrangement for benefits for eligible individuals outside New York.

"PART 2—WTC SURVIVORS

"Sec. 3321. Identification and initial health evaluation of screening-eligible and certified-eligible WTC survivors.
"Sec. 3322. Followup monitoring and treatment of certified-eligible WTC survivors for WTC-related health conditions.

''Sec. 3323. Followup monitoring and treatment of other individuals with WTC-related health conditions.

''PART 3—PAYOR PROVISIONS

''Sec. 3331. Payment of claims.
''Sec. 3332. Administrative arrangement authority.

''Subtitle C—Research Into Conditions

''Sec. 3341. Research regarding certain health conditions related to September 11 terrorist attacks.
''Sec. 3342. World Trade Center Health Registry.

''Subtitle D—Funding

''Sec. 3351. World Trade Center Health Program Fund.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

Sec. 201. Definitions.
Sec. 202. Extended and expanded eligibility for compensation.
Sec. 203. Requirement to update regulations.
Sec. 204. Limited liability for certain claims.
Sec. 205. Funding; attorney fees.

TITLE III—REVENUE RELATED PROVISIONS

Sec. 301. Excise tax on foreign procurement.
Sec. 302. Renewal of fees for visa-dependent employers.

TITLE IV—BUDGETARY EFFECTS

Sec. 401. Compliance with Statutory Pay-As-You-Go Act of 2010.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

SEC. 101. WORLD TRADE CENTER HEALTH PROGRAM.

The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXXIII—WORLD TRADE CENTER HEALTH PROGRAM

"Subtitle A—Establishment of Program; Advisory Committee

"SEC. 3301. ESTABLISHMENT OF WORLD TRADE CENTER HEALTH PROGRAM.

''(a) IN GENERAL.—There is hereby established within the Department of Health and Human Services a program to be known as the World Trade Center Health Program, which shall be administered by the WTC Program Administrator, to provide beginning on July 1, 2011—

''(1) medical monitoring and treatment benefits to eligible emergency responders and recovery and cleanup workers (including those who are Federal employees) who responded to the September 11, 2001, terrorist attacks; and

''(2) initial health evaluation, monitoring, and treatment benefits to residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by such attacks.

''(b) COMPONENTS OF PROGRAM.—The WTC Program includes the following components:

''(1) MEDICAL MONITORING FOR RESPONDERS.—Medical monitoring under section 3311, including clinical examinations and long-term health monitoring and analysis for enrolled WTC responders who were likely to have been exposed to airborne toxins that were released, or to other hazards, as a result of the September 11, 2001, terrorist attacks.

''(2) INITIAL HEALTH EVALUATION FOR SURVIVORS.—An initial health evaluation under section 3321, including an evaluation to determine eligibility for followup monitoring and treatment.

''(3) FOLLOWUP MONITORING AND TREATMENT FOR WTC-RELATED HEALTH CONDITIONS FOR RESPONDERS AND SURVIVORS.—Provision under sections 3312, 3322, and 3323 of followup monitoring and treatment and payment, subject to the provisions of subsection (d), for all medically necessary health and mental health care expenses of an individual with respect to a WTC-related health condition (including necessary prescription drugs).

''(4) OUTREACH.—Establishment under section 3303 of an education and outreach program to potentially eligible individuals concerning the benefits under this title.

''(5) CLINICAL DATA COLLECTION AND ANALYSIS.—Collection and analysis under section 3304 of health and mental health data relating to individuals receiving monitoring or treatment benefits in a uniform manner in collaboration with the collection of epidemiological data under section 3342.

''(6) RESEARCH ON HEALTH CONDITIONS.—Establishment under subtitle C of a research program on health conditions resulting from the September 11, 2001, terrorist attacks.

''(c) NO COST SHARING.—Monitoring and treatment benefits and initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost sharing to an enrolled WTC responder or certified-eligible WTC survivor. Initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost sharing to a screening-eligible WTC survivor.

''(d) PREVENTING FRAUD AND UNREASONABLE ADMINISTRATIVE COSTS.—

''(1) FRAUD.—The Inspector General of the Department of Health and Human Services shall develop and implement a program to review the WTC Program's health care expenditures to detect fraudulent or duplicate billing and payment for inappropriate services. This title is a Federal health care program (as defined in section 1128B(f) of the Social Security Act) and is a health plan (as defined in section 1128C(c) of such Act) for purposes of applying sections 1128 through 1128E of such Act.

''(2) UNREASONABLE ADMINISTRATIVE COSTS.—The Inspector General of the Department of Health and Human Services shall develop and implement a program to review the WTC Program for unreasonable administrative costs, including with respect to infrastructure, administration, and claims processing.

''(e) QUALITY ASSURANCE.—The WTC Program Administrator working with the Clinical Centers of Excellence shall develop and implement a quality assurance program for the monitoring and treatment delivered by such Centers of Excellence and any other participating health care providers. Such program shall include—

''(1) adherence to monitoring and treatment protocols;

''(2) appropriate diagnostic and treatment referrals for participants;

''(3) prompt communication of test results to participants; and

''(4) such other elements as the Administrator specifies in consultation with the Clinical Centers of Excellence.

''(f) ANNUAL PROGRAM REPORT.—

''(1) IN GENERAL.—Not later than 6 months after the end of each fiscal year in which the WTC Program is in operation, the WTC Program Administrator shall submit an annual report to the Congress on the operations of this title for such fiscal year and for the entire period of operation of the program.

''(2) CONTENTS INCLUDED IN REPORT.—Each annual report under paragraph (1) shall include at least the following:

''(A) ELIGIBLE INDIVIDUALS.—Information for each clinical program described in paragraph (3)—

''(i) on the number of individuals who applied for certification under subtitle B and the number of such individuals who were so certified;

''(ii) of the individuals who were certified, on the number who received monitoring under the program and the number of such individuals who received medical treatment under the program;

''(iii) with respect to individuals so certified who received such treatment, on the WTC-related health conditions for which they were treated; and

''(iv) on the projected number of individuals who will be certified under subtitle B in the succeeding fiscal year and the succeeding 10-year period.

''(B) MONITORING, INITIAL HEALTH EVALUATION, AND TREATMENT COSTS.—For each clinical program so described—

''(i) information on the costs of monitoring and initial health evaluation and the costs of treatment and on the estimated costs of such monitoring, evaluation, and treatment in the succeeding fiscal year; and

''(ii) an estimate of the cost of medical treatment for WTC-related health conditions that have been paid for or reimbursed by workers' compensation, by public or private health plans, or by New York City under section 3331.

''(C) ADMINISTRATIVE COSTS.—Information on the cost of administering the program, including costs of program support, data collection and analysis, and research conducted under the program.

''(D) ADMINISTRATIVE EXPERIENCE.—Information on the administrative performance of the program, including—

''(i) the performance of the program in providing timely evaluation of and treatment to eligible individuals; and

''(ii) a list of the Clinical Centers of Excellence and other providers that are participating in the program.

''(E) SCIENTIFIC REPORTS.—A summary of the findings of any new scientific reports or studies on the health effects associated with exposure described in section 3306(1), including the findings of research conducted under section 3341(a).

''(F) ADVISORY COMMITTEE RECOMMENDATIONS.—A list of recommendations by the WTC Scientific/Technical Advisory Committee on additional WTC Program eligibility criteria and on additional WTC-related health conditions and the action of the WTC Program Administrator concerning each such recommendation.

''(3) SEPARATE CLINICAL PROGRAMS DESCRIBED.—In paragraph (2), each of the following shall be treated as a separate clinical program of the WTC Program:

''(A) FIREFIGHTERS AND RELATED PERSONNEL.—The benefits provided for enrolled WTC responders described in section 3311(a)(2)(A).

''(B) OTHER WTC RESPONDERS.—The benefits provided for enrolled WTC responders not described in subparagraph (A).

''(C) WTC SURVIVORS.—The benefits provided for screening-eligible WTC survivors and certified-eligible WTC survivors in section 3321(a).

''(g) NOTIFICATION TO CONGRESS UPON REACHING 80 PERCENT OF ELIGIBILITY NUMERICAL LIMITS.—The Secretary shall promptly notify the Congress of each of the following:

''(1) When the number of enrollments of WTC responders subject to the limit established under section 3311(a)(4) has reached 80 percent of such limit.

''(2) When the number of certifications for certified-eligible WTC survivors subject to the limit established under section 3321(a)(3) has reached 80 percent of such limit.

''(h) CONSULTATION.—The WTC Program Administrator shall engage in ongoing outreach and consultation with relevant stakeholders, including the WTC Health Program

Steering Committees and the Advisory Committee under section 3302, regarding the implementation and improvement of programs under this title.

"SEC. 3302. WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE; WTC HEALTH PROGRAM STEERING COMMITTEES.

''(a) ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—The WTC Program Administrator shall establish an advisory committee to be known as the WTC Health Program Scientific/Technical Advisory Committee (in this subsection referred to as the 'Advisory Committee') to review scientific and medical evidence and to make recommendations to the Administrator on additional WTC Program eligibility criteria and on additional WTC-related health conditions.

''(2) COMPOSITION.—The WTC Program Administrator shall appoint the members of the Advisory Committee and shall include at least—

''(A) 4 occupational physicians, at least 2 of whom have experience treating WTC rescue and recovery workers;

''(B) 1 physician with expertise in pulmonary medicine;

''(C) 2 environmental medicine or environmental health specialists;

''(D) 2 representatives of WTC responders;

''(E) 2 representatives of certified-eligible WTC survivors;

''(F) an industrial hygienist;

''(G) a toxicologist;

''(H) an epidemiologist; and

''(I) a mental health professional.

''(3) MEETINGS.—The Advisory Committee shall meet at such frequency as may be required to carry out its duties.

''(4) REPORTS.—The WTC Program Administrator shall provide for publication of recommendations of the Advisory Committee on the public Web site established for the WTC Program.

''(5) DURATION.—Notwithstanding any other provision of law, the Advisory Committee shall continue in operation during the period in which the WTC Program is in operation.

''(6) APPLICATION OF FACA.—Except as otherwise specifically provided, the Advisory Committee shall be subject to the Federal Advisory Committee Act.

''(b) WTC HEALTH PROGRAM STEERING COMMITTEES.—

''(1) CONSULTATION.—The WTC Program Administrator shall consult with 2 steering committees (each in this section referred to as a 'Steering Committee') that are established as follows:

''(A) WTC RESPONDERS STEERING COMMITTEE.—One Steering Committee, to be known as the WTC Responders Steering Committee, for the purpose of receiving input from affected stakeholders and facilitating the coordination of monitoring and treatment programs for the enrolled WTC responders under part 1 of subtitle B.

''(B) WTC SURVIVORS STEERING COMMITTEE.—One Steering Committee, to be known as the WTC Survivors Steering Committee, for the purpose of receiving input from affected stakeholders and facilitating the coordination of initial health evaluations, monitoring, and treatment programs for screening-eligible and certified-eligible WTC survivors under part 2 of subtitle B.

''(2) MEMBERSHIP.—

''(A) WTC RESPONDERS STEERING COMMITTEE.—

''(i) REPRESENTATION.—The WTC Responders Steering Committee shall include—

''(I) representatives of the Centers of Excellence providing services to WTC responders;

''(II) representatives of labor organizations representing firefighters, police, other New York City employees, and recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks; and

''(III) 3 representatives of New York City, 1 of whom will be selected by the police commissioner of New York City, 1 by the health commissioner of New York City, and 1 by the mayor of New York City.

''(ii) INITIAL MEMBERSHIP.—The WTC Responders Steering Committee shall initially be composed of members of the WTC Monitoring and Treatment Program Steering Committee (as in existence on the day before the date of the enactment of this title).

''(B) WTC SURVIVORS STEERING COMMITTEE.—

''(i) REPRESENTATION.—The WTC Survivors Steering Committee shall include representatives of—

''(I) the Centers of Excellence providing services to screening-eligible and certified-eligible WTC survivors;

''(II) the population of residents, students, and area and other workers affected by the September 11, 2001, terrorist attacks;

''(III) screening-eligible and certified-eligible survivors receiving initial health evaluations, monitoring, or treatment under part 2 of subtitle B and organizations advocating on their behalf; and

''(IV) New York City.

''(ii) INITIAL MEMBERSHIP.—The WTC Survivors Steering Committee shall initially be composed of members of the WTC Environmental Health Center Survivor Advisory Committee (as in existence on the day before the date of the enactment of this title).

''(C) ADDITIONAL APPOINTMENTS.—Each Steering Committee may recommend, if approved by a majority of voting members of the Committee, additional members to the Committee.

''(D) VACANCIES.—A vacancy in a Steering Committee shall be filled by an individual recommended by the Steering Committee.

"SEC. 3303. EDUCATION AND OUTREACH.

''The WTC Program Administrator shall institute a program that provides education and outreach on the existence and availability of services under the WTC Program. The outreach and education program—

''(1) shall include—

''(A) the establishment of a public Web site with information about the WTC Program;

''(B) meetings with potentially eligible populations;

''(C) development and dissemination of outreach materials informing people about the program; and

''(D) the establishment of phone information services; and

''(2) shall be conducted in a manner intended—

''(A) to reach all affected populations; and

''(B) to include materials for culturally and linguistically diverse populations.

"SEC. 3304. UNIFORM DATA COLLECTION AND ANALYSIS.

''(a) IN GENERAL.—The WTC Program Administrator shall provide for the uniform collection of data, including claims data (and analysis of data and regular reports to the Administrator) on the prevalence of WTC-related health conditions and the identification of new WTC-related health conditions. Such data shall be collected for all individuals provided monitoring or treatment benefits under subtitle B and regardless of their place of residence or Clinical Center of Excellence through which the benefits are provided. The WTC Program Administrator shall provide, through the Data Centers or otherwise, for the integration of such data into the monitoring and treatment program activities under this title.

''(b) COORDINATING THROUGH CENTERS OF EXCELLENCE.—Each Clinical Center of Excellence shall collect data described in subsection (a) and report such data to the corresponding Data Center for analysis by such Data Center.

''(c) COLLABORATION WITH WTC HEALTH REGISTRY.—The WTC Program Administrator shall provide for collaboration between the Data Centers and the World Trade Center Health Registry described in section 3342.

''(d) PRIVACY.—The data collection and analysis under this section shall be conducted and maintained in a manner that protects the confidentiality of individually identifiable health information consistent with applicable statutes and regulations, including, as applicable, HIPAA privacy and security law (as defined in section 3009(a)(2)) and section 552a of title 5, United States Code.

"SEC. 3305. CLINICAL CENTERS OF EXCELLENCE AND DATA CENTERS.

''(a) IN GENERAL.—

''(1) CONTRACTS WITH CLINICAL CENTERS OF EXCELLENCE.—The WTC Program Administrator shall, subject to subsection (b)(1)(B), enter into contracts with Clinical Centers of Excellence (as defined in subsection (b)(1)(A))—

''(A) for the provision of monitoring and treatment benefits and initial health evaluation benefits under subtitle B;

''(B) for the provision of outreach activities to individuals eligible for such monitoring and treatment benefits, for initial health evaluation benefits, and for followup to individuals who are enrolled in the monitoring program;

''(C) for the provision of counseling for benefits under subtitle B, with respect to WTC-related health conditions, for individuals eligible for such benefits;

''(D) for the provision of counseling for benefits for WTC-related health conditions that may be available under workers' compensation or other benefit programs for work-related injuries or illnesses, health insurance, disability insurance, or other insurance plans or through public or private social service agencies and assisting eligible individuals in applying for such benefits;

''(E) for the provision of translational and interpretive services for program participants who are not English language proficient; and

''(F) for the collection and reporting of data, including claims data, in accordance with section 3304.

''(2) CONTRACTS WITH DATA CENTERS.—

''(A) IN GENERAL.—The WTC Program Administrator shall enter into contracts with one or more Data Centers (as defined in subsection (b)(2))—

''(i) for receiving, analyzing, and reporting to the WTC Program Administrator on data, in accordance with section 3304, that have been collected and reported to such Data Centers by the corresponding Clinical Centers of Excellence under subsection (b)(1)(B)(iii);

''(ii) for the development of monitoring, initial health evaluation, and treatment protocols, with respect to WTC-related health conditions;

''(iii) for coordinating the outreach activities conducted under paragraph (1)(B) by each corresponding Clinical Center of Excellence;

''(iv) for establishing criteria for the credentialing of medical providers participating in the nationwide network under section 3313;

''(v) for coordinating and administering the activities of the WTC Health Program Steering Committees established under section 3002(b); and

''(vi) for meeting periodically with the corresponding Clinical Centers of Excellence to

obtain input on the analysis and reporting of data collected under clause (i) and on the development of monitoring, initial health evaluation, and treatment protocols under clause (ii).

''(B) MEDICAL PROVIDER SELECTION.—The medical providers under subparagraph (A)(iv) shall be selected by the WTC Program Administrator on the basis of their experience treating or diagnosing the health conditions included in the list of WTC-related health conditions.

''(C) CLINICAL DISCUSSIONS.—In carrying out subparagraph (A)(ii), a Data Center shall engage in clinical discussions across the WTC Program to guide treatment approaches for individuals with a WTC-related health condition.

''(D) TRANSPARENCY OF DATA.—A contract entered into under this subsection with a Data Center shall require the Data Center to make any data collected and reported to such Center under subsection (b)(1)(B)(iii) available to health researchers and others as provided in the CDC/ATSDR Policy on Releasing and Sharing Data.

''(3) AUTHORITY FOR CONTRACTS TO BE CLASS SPECIFIC.—A contract entered into under this subsection with a Clinical Center of Excellence or a Data Center may be with respect to one or more class of enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors.

''(4) USE OF COOPERATIVE AGREEMENTS.—Any contract under this title between the WTC Program Administrator and a Data Center or a Clinical Center of Excellence may be in the form of a cooperative agreement.

''(5) REVIEW ON FEASIBILITY OF CONSOLIDATING DATA CENTERS.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the feasibility of consolidating Data Centers into a single Data Center.

''(b) CENTERS OF EXCELLENCE.—

''(1) CLINICAL CENTERS OF EXCELLENCE.—

''(A) DEFINITION.—For purposes of this title, the term 'Clinical Center of Excellence' means a Center that demonstrates to the satisfaction of the Administrator that the Center—

''(i) uses an integrated, centralized health care provider approach to create a comprehensive suite of health services under this title that are accessible to enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors;

''(ii) has experience in caring for WTC responders and screening-eligible WTC survivors or includes health care providers who have been trained pursuant to section 3313(c);

''(iii) employs health care provider staff with expertise that includes, at a minimum, occupational medicine, environmental medicine, trauma-related psychiatry and psychology, and social services counseling; and

''(iv) meets such other requirements as specified by the Administrator.

''(B) CONTRACT REQUIREMENTS.—The WTC Program Administrator shall not enter into a contract with a Clinical Center of Excellence under subsection (a)(1) unless the Center agrees to do each of the following:

''(i) Establish a formal mechanism for consulting with and receiving input from representatives of eligible populations receiving monitoring and treatment benefits under subtitle B from such Center.

''(ii) Coordinate monitoring and treatment benefits under subtitle B with routine medical care provided for the treatment of conditions other than WTC-related health conditions.

''(iii) Collect and report to the corresponding Data Center data, including claims data, in accordance with section 3304(b).

''(iv) Have in place safeguards against fraud that are satisfactory to the Administrator, in consultation with the Inspector General of the Department of Health and Human Services.

''(v) Treat or refer for treatment all individuals who are enrolled WTC responders or certified-eligible WTC survivors with respect to such Center who present themselves for treatment of a WTC-related health condition.

''(vi) Have in place safeguards, consistent with section 3304(c), to ensure the confidentiality of an individual's individually identifiable health information, including requiring that such information not be disclosed to the individual's employer without the authorization of the individual.

''(vii) Use amounts paid under subsection (c)(1) only for costs incurred in carrying out the activities described in subsection (a), other than those described in subsection (a)(1)(A).

''(viii) Utilize health care providers with occupational and environmental medicine expertise to conduct physical and mental health assessments, in accordance with protocols developed under subsection (a)(2)(A)(ii).

''(ix) Communicate with WTC responders and screening-eligible and certified-eligible WTC survivors in appropriate languages and conduct outreach activities with relevant stakeholder worker or community associations.

''(x) Meet all the other applicable requirements of this title, including regulations implementing such requirements.

''(C) TRANSITION RULE TO ENSURE CONTINUITY OF CARE.—The WTC Program Administrator shall to the maximum extent feasible ensure continuity of care in any period of transition from monitoring and treatment of an enrolled WTC responder or certified-eligible WTC survivor by a provider to a Clinical Center of Excellence or a health care provider participating in the nationwide network under section 3313.

''(2) DATA CENTERS.—For purposes of this title, the term 'Data Center' means a Center that the WTC Program Administrator determines has the capacity to carry out the responsibilities for a Data Center under subsection (a)(2).

''(3) CORRESPONDING CENTERS.—For purposes of this title, a Clinical Center of Excellence and a Data Center shall be treated as 'corresponding' to the extent that such Clinical Center and Data Center serve the same population group.

''(c) PAYMENT FOR INFRASTRUCTURE COSTS.—

''(1) IN GENERAL.—The WTC Program Administrator shall reimburse a Clinical Center of Excellence for the fixed infrastructure costs of such Center in carrying out the activities described in subtitle B at a rate negotiated by the Administrator and such Centers. Such negotiated rate shall be fair and appropriate and take into account the number of enrolled WTC responders receiving services from such Center under this title.

''(2) FIXED INFRASTRUCTURE COSTS.—For purposes of paragraph (1), the term 'fixed infrastructure costs' means, with respect to a Clinical Center of Excellence, the costs incurred by such Center that are not otherwise reimbursable by the WTC Program Administrator under section 3312(c) for patient evaluation, monitoring, or treatment but which are needed to operate the WTC program such as the costs involved in outreach to participants or recruiting participants, data collection and analysis, social services for counseling patients on other available assistance outside the WTC program, and the development of treatment protocols. Such term does not include costs for new construction or other capital costs.

''(d) GAO ANALYSIS.—Not later than July 1, 2011, the Comptroller General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate an analysis on whether Clinical Centers of Excellence with which the WTC Program Administrator enters into a contract under this section have financial systems that will allow for the timely submission of claims data for purposes of section 3304 and subsections (a)(1)(F) and (b)(1)(B)(iii).

"SEC. 3306. DEFINITIONS.

''In this title:

''(1) The term 'aggravating' means, with respect to a health condition, a health condition that existed on September 11, 2001, and that, as a result of exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, requires medical treatment that is (or will be) in addition to, more frequent than, or of longer duration than the medical treatment that would have been required for such condition in the absence of such exposure.

''(2) The term 'certified-eligible WTC survivor' has the meaning given such term in section 3321(a)(2).

''(3) The terms 'Clinical Center of Excellence' and 'Data Center' have the meanings given such terms in section 3305.

''(4) The term 'enrolled WTC responder' means a WTC responder enrolled under section 3311(a)(3).

''(5) The term 'initial health evaluation' includes, with respect to an individual, a medical and exposure history, a physical examination, and additional medical testing as needed to evaluate whether the individual has a WTC-related health condition and is eligible for treatment under the WTC Program.

''(6) The term 'list of WTC-related health conditions' means—

''(A) for WTC responders, the health conditions listed in section 3312(a)(3); and

''(B) for screening-eligible and certified-eligible WTC survivors, the health conditions listed in section 3322(b).

''(7) The term 'New York City disaster area' means the area within New York City that is—

''(A) the area of Manhattan that is south of Houston Street; and

''(B) any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former World Trade Center site.

''(8) The term 'New York metropolitan area' means an area, specified by the WTC Program Administrator, within which WTC responders and eligible WTC screening-eligible survivors who reside in such area are reasonably able to access monitoring and treatment benefits and initial health evaluation benefits under this title through a Clinical Center of Excellence described in subparagraphs (A), (B), or (C) of section 3305(b)(1).

''(9) The term 'screening-eligible WTC survivor' has the meaning given such term in section 3321(a)(1).

''(10) Any reference to 'September 11, 2001' shall be deemed a reference to the period on such date subsequent to the terrorist attacks at the World Trade Center, Shanksville, Pennsylvania, or the Pentagon, as applicable, on such date.

''(11) The term 'September 11, 2001, terrorist attacks' means the terrorist attacks

that occurred on September 11, 2001, in New York City, in Shanksville, Pennsylvania, and at the Pentagon, and includes the aftermath of such attacks.

''(12) The term 'WTC Health Program Steering Committee' means such a Steering Committee established under section 3302(b).

''(13) The term 'WTC Program' means the Word Trade Center Health Program established under section 3301(a).

''(14)(A) The term 'WTC Program Administrator' means—

''(i) subject to subparagraph (B), with respect to paragraphs (3) and (4) of section 3311(a) (relating to enrollment of WTC responders), section 3312(c) and the corresponding provisions of section 3322 (relating to payment for initial health evaluation, monitoring, and treatment, paragraphs (1)(C), (2)(B), and (3) of section 3321(a) (relating to determination or certification of screening-eligible or certified-eligible WTC responders), and part 3 of subtitle B (relating to payor provisions), an official in the Department of Health and Human Services, to be designated by the Secretary; and

''(ii) with respect to any other provision of this title, the Director of the National Institute for Occupational Safety and Health, or a designee of such Director.

''(B) In no case may the Secretary designate under subparagraph (A)(i) the Director of the National Institute for Occupational Safety and Health or a designee of such Director with respect to section 3322 (relating to payment for initial health evaluation, monitoring, and treatment).

''(15) The term 'WTC-related health condition' is defined in section 3312(a).

''(16) The term 'WTC responder' is defined in section 3311(a).

''(17) The term 'WTC Scientific/Technical Advisory Committee' means such Committee established under section 3302(a).

"Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

"PART 1—WTC RESPONDERS

"SEC. 3311. IDENTIFICATION OF WTC RESPONDERS AND PROVISION OF WTC-RELATED MONITORING SERVICES.

''(a) WTC RESPONDER DEFINED.—

''(1) IN GENERAL.—For purposes of this title, the term 'WTC responder' means any of the following individuals, subject to paragraph (4):

''(A) CURRENTLY IDENTIFIED RESPONDER.—An individual who has been identified as eligible for monitoring under the arrangements as in effect on the date of the enactment of this title between the National Institute for Occupational Safety and Health and—

''(i) the consortium coordinated by Mt. Sinai Hospital in New York City that coordinates the monitoring and treatment for enrolled WTC responders other than with respect to those covered under the arrangement with the Fire Department of New York City; or

''(ii) the Fire Department of New York City.

''(B) RESPONDER WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who meets the current eligibility criteria described in paragraph (2).

''(C) RESPONDER WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who—

''(i) performed rescue, recovery, demolition, debris cleanup, or other related services in the New York City disaster area in response to the September 11, 2001, terrorist attacks, regardless of whether such services were performed by a State or Federal employee or member of the National Guard or otherwise; and

''(ii) meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks as the WTC Program Administrator, after consultation with the WTC Scientific/Technical Advisory Committee, determines appropriate.

The WTC Program Administrator shall not modify such eligibility criteria on or after the date that the number of enrollments of WTC responders has reached 80 percent of the limit described in paragraph (4) or on or after the date that the number of certifications for certified-eligible WTC survivors under section 3321(a)(2)(B) has reached 80 percent of the limit described in section 3321(a)(3).

''(2) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this paragraph for an individual is that the individual is described in any of the following categories:

''(A) FIREFIGHTERS AND RELATED PERSONNEL.—The individual—

''(i) was a member of the Fire Department of New York City (whether fire or emergency personnel, active or retired) who participated at least one day in the rescue and recovery effort at any of the former World Trade Center sites (including Ground Zero, Staten Island Landfill, and the New York City Chief Medical Examiner's Office) for any time during the period beginning on September 11, 2001, and ending on July 31, 2002; or

''(ii)(I) is a surviving immediate family member of an individual who was a member of the Fire Department of New York City (whether fire or emergency personnel, active or retired) and was killed at the World Trade site on September 11, 2001; and

''(II) received any treatment for a WTC-related health condition described in section 3312(a)(1)(A)(ii) (relating to mental health conditions) on or before September 1, 2008.

''(B) LAW ENFORCEMENT OFFICERS AND WTC RESCUE, RECOVERY, AND CLEANUP WORKERS.—The individual—

''(i) worked or volunteered onsite in rescue, recovery, debris cleanup, or related support services in lower Manhattan (south of Canal St.), the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning on September 11, 2001, and ending on September 14, 2001, for at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001, or for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

''(ii)(I) was a member of the Police Department of New York City (whether active or retired) or a member of the Port Authority Police of the Port Authority of New York and New Jersey (whether active or retired) who participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.), including Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning September 11, 2001, and ending on September 14, 2001;

''(II) participated onsite in rescue, recovery, debris cleanup, or related services at Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least one day during the period beginning on September 11, 2001, and ending on July 31, 2002;

''(III) participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.) for at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001; or

''(IV) participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.) for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

''(iii) was an employee of the Office of the Chief Medical Examiner of New York City involved in the examination and handling of human remains from the World Trade Center attacks, or other morgue worker who performed similar post-September 11 functions for such Office staff, during the period beginning on September 11, 2001, and ending on July 31, 2002;

''(iv) was a worker in the Port Authority Trans-Hudson Corporation Tunnel for at least 24 hours during the period beginning on February 1, 2002, and ending on July 1, 2002; or

''(v) was a vehicle-maintenance worker who was exposed to debris from the former World Trade Center while retrieving, driving, cleaning, repairing, and maintaining vehicles contaminated by airborne toxins from the September 11, 2001, terrorist attacks during a duration and period described in subparagraph (A).

''(C) RESPONDERS TO THE SEPTEMBER 11 ATTACKS AT THE PENTAGON AND SHANKSVILLE, PENNSYLVANIA.—The individual—

''(i)(I) was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Pentagon site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on the date on which the cleanup of the site was concluded, as determined by the WTC Program Administrator; or

''(II) was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Shanksville, Pennsylvania, site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on the date on which the cleanup of the site was concluded, as determined by the WTC Program Administrator; and

''(ii) is determined by the WTC Program Administrator to be at an increased risk of developing a WTC-related health condition as a result of exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks, and meets such eligibility criteria related to such exposures, as the WTC Program Administrator determines are appropriate, after consultation with the WTC Scientific/Technical Advisory Committee.

''(3) ENROLLMENT PROCESS.—

''(A) IN GENERAL.—The WTC Program Administrator shall establish a process for enrolling WTC responders in the WTC Program. Under such process—

''(i) WTC responders described in paragraph (1)(A) shall be deemed to be enrolled in such Program;

''(ii) subject to clause (iii), the Administrator shall enroll in such program individuals who are determined to be WTC responders;

''(iii) the Administrator shall deny such enrollment to an individual if the Administrator determines that the numerical limitation in paragraph (4) on enrollment of WTC responders has been met;

''(iv) there shall be no fee charged to the applicant for making an application for such enrollment;

''(v) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application; and

''(vi) an individual who is denied enrollment in such Program shall have an opportunity to appeal such determination in a manner established under such process.

''(B) TIMING.—

''(i) CURRENTLY IDENTIFIED RESPONDERS.—In accordance with subparagraph (A)(i), the WTC Program Administrator shall enroll an individual described in paragraph (1)(A) in the WTC Program not later than July 1, 2011.

''(ii) OTHER RESPONDERS.—In accordance with subparagraph (A)(ii) and consistent with paragraph (4), the WTC Program Administrator shall enroll any other individual who is determined to be a WTC responder in the WTC Program at the time of such determination.

''(4) NUMERICAL LIMITATION ON ELIGIBLE WTC RESPONDERS.—

''(A) IN GENERAL.—The total number of individuals not described in paragraph (1)(A) or (2)(A)(ii) who may be enrolled under paragraph (3)(A)(ii) shall not exceed 25,000 at any time, of which no more than 2,500 may be individuals enrolled based on modified eligibility criteria established under paragraph (1)(C).

''(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

''(i) limit the number of enrollments made under paragraph (3)—

''(I) in accordance with such subparagraph; and

''(II) to such number, as determined by the Administrator based on the best available information and subject to amounts available under section 3351, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this title, with respect to all individuals who are enrolled through the end of fiscal year 2020; and

''(ii) provide priority (subject to paragraph (3)(A)(i)) in such enrollments in the order in which individuals apply for enrollment under paragraph (3).

''(5) DISQUALIFICATION OF INDIVIDUALS ON TERRORIST WATCH LIST.—No individual who is on the terrorist watch list maintained by the Department of Homeland Security shall qualify as an eligible WTC responder. Before enrolling any individual as a WTC responder in the WTC Program under paragraph (3), the Administrator, in consultation with the Secretary of Homeland Security, shall determine whether the individual is on such list.

''(b) MONITORING BENEFITS.—

''(1) IN GENERAL.—In the case of an enrolled WTC responder (other than one described in subsection (a)(2)(A)(ii)), the WTC Program shall provide for monitoring benefits that include monitoring consistent with protocols approved by the WTC Program Administrator and including clinical examinations and long-term health monitoring and analysis. In the case of an enrolled WTC responder who is an active member of the Fire Department of New York City, the responder shall receive such benefits as part of the individual's periodic company medical exams.

''(2) PROVISION OF MONITORING BENEFITS.—The monitoring benefits under paragraph (1) shall be provided through the Clinical Center of Excellence for the type of individual involved or, in the case of an individual residing outside the New York metropolitan area, under an arrangement under section 3313.

''SEC. 3312. TREATMENT OF ENROLLED WTC RESPONDERS FOR WTC-RELATED HEALTH CONDITIONS.

''(a) WTC-RELATED HEALTH CONDITION DEFINED.—

''(1) IN GENERAL.—For purposes of this title, the term 'WTC-related health condition' means a condition that—

''(A)(i) is an illness or health condition for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or health condition, as determined under paragraph (2); or

''(ii) is a mental health condition for which such attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition, as determined under paragraph (2); and

''(B) is included in the applicable list of WTC-related health conditions or—

''(i) with respect to a WTC responder, is provided certification of coverage under subsection (b)(2)(B)(iii); or

''(ii) with respect to a screening-eligible WTC survivor or certified-eligible WTC survivor, is provided certification of coverage under subsection (b)(2)(B)(iii), as applied under section 3322(a).

In the case of a WTC responder described in section 3311(a)(2)(A)(ii) (relating to a surviving immediate family member of a firefighter), such term does not include an illness or health condition described in subparagraph (A)(i).

''(2) DETERMINATION.—The determination under paragraph (1) or subsection (b) of whether the September 11, 2001, terrorist attacks were substantially likely to be a significant factor in aggravating, contributing to, or causing an individual's illness or health condition shall be made based on an assessment of the following:

''(A) The individual's exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the terrorist attacks. Such exposure shall be—

''(i) evaluated and characterized through the use of a standardized, population-appropriate questionnaire approved by the Director of the National Institute for Occupational Safety and Health; and

''(ii) assessed and documented by a medical professional with experience in treating or diagnosing health conditions included on the list of WTC-related health conditions.

''(B) The type of symptoms and temporal sequence of symptoms. Such symptoms shall be—

''(i) assessed through the use of a standardized, population-appropriate medical questionnaire approved by the Director of the National Institute for Occupational Safety and Health and a medical examination; and

''(ii) diagnosed and documented by a medical professional described in subparagraph (A)(ii).

''(3) LIST OF HEALTH CONDITIONS FOR WTC RESPONDERS.—The list of health conditions for WTC responders consists of the following:

''(A) AERODIGESTIVE DISORDERS.—

''(i) Interstitial lung diseases.

''(ii) Chronic respiratory disorder—fumes/vapors.

''(iii) Asthma.

''(iv) Reactive airways dysfunction syndrome (RADS).

''(v) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

''(vi) Chronic cough syndrome.

''(vii) Upper airway hyperreactivity.

''(viii) Chronic rhinosinusitis.

''(ix) Chronic nasopharyngitis.

''(x) Chronic laryngitis.

''(xi) Gastroesophageal reflux disorder (GERD).

''(xii) Sleep apnea exacerbated by or related to a condition described in a previous clause.

''(B) MENTAL HEALTH CONDITIONS.—

''(i) Posttraumatic stress disorder (PTSD).

''(ii) Major depressive disorder.

''(iii) Panic disorder.

''(iv) Generalized anxiety disorder.

''(v) Anxiety disorder (not otherwise specified).

''(vi) Depression (not otherwise specified).

''(vii) Acute stress disorder.

''(viii) Dysthymic disorder.

''(ix) Adjustment disorder.

''(x) Substance abuse.

''(C) MUSCULOSKELETAL DISORDERS FOR CERTAIN WTC RESPONDERS.—In the case of a WTC responder described in paragraph (4), a condition described in such paragraph.

''(D) ADDITIONAL CONDITIONS.—Any cancer (or type of cancer) or other condition added, pursuant to paragraph (5) or (6), to the list under this paragraph.

''(4) MUSCULOSKELETAL DISORDERS.—

''(A) IN GENERAL.—For purposes of this title, in the case of a WTC responder who received any treatment for a WTC-related musculoskeletal disorder on or before September 11, 2003, the list of health conditions in paragraph (3) shall include:

''(i) Low back pain.

''(ii) Carpal tunnel syndrome (CTS).

''(iii) Other musculoskeletal disorders.

''(B) DEFINITION.—The term 'WTC-related musculoskeletal disorder' means a chronic or recurrent disorder of the musculoskeletal system caused by heavy lifting or repetitive strain on the joints or musculoskeletal system occurring during rescue or recovery efforts in the New York City disaster area in the aftermath of the September 11, 2001, terrorist attacks.

''(5) CANCER.—

''(A) IN GENERAL.—The WTC Program Administrator shall periodically conduct a review of all available scientific and medical evidence, including findings and recommendations of Clinical Centers of Excellence, published in peer-reviewed journals to determine if, based on such evidence, cancer or a certain type of cancer should be added to the applicable list of WTC-related health conditions. The WTC Program Administrator shall conduct the first review under this subparagraph not later than 180 days after the date of the enactment of this title.

''(B) PROPOSED REGULATIONS AND RULEMAKING.—Based on the periodic reviews under subparagraph (A), if the WTC Program Administrator determines that cancer or a certain type of cancer should be added to such list of WTC-related health conditions, the WTC Program Administrator shall propose regulations, through rulemaking, to add cancer or the certain type of cancer to such list.

''(C) FINAL REGULATIONS.—Based on all the available evidence in the rulemaking record, the WTC Program Administrator shall make a final determination of whether cancer or a certain type of cancer should be added to such list of WTC-related health conditions. If such a determination is made to make such an addition, the WTC Program Administrator shall by regulation add cancer or the certain type of cancer to such list.

''(D) DETERMINATIONS NOT TO ADD CANCER OR CERTAIN TYPES OF CANCER.—In the case that the WTC Program Administrator determines under subparagraph (B) or (C) that cancer or a certain type of cancer should not be added to such list of WTC-related health conditions, the WTC Program Administrator shall publish an explanation for such determination in the Federal Register. Any such determination to not make such an addition shall not preclude the addition of cancer or the certain type of cancer to such list at a later date.

''(6) ADDITION OF HEALTH CONDITIONS TO LIST FOR WTC RESPONDERS.—

''(A) IN GENERAL.—Whenever the WTC Program Administrator determines that a proposed rule should be promulgated to add a health condition to the list of health conditions in paragraph (3), the Administrator may request a recommendation of the Advisory Committee or may publish such a proposed rule in the Federal Register in accordance with subparagraph (D).

''(B) ADMINISTRATOR'S OPTIONS AFTER RECEIPT OF PETITION.—In the case that the WTC Program Administrator receives a written petition by an interested party to add a health condition to the list of health conditions in paragraph (3), not later than 60 days after the date of receipt of such petition the Administrator shall—

''(i) request a recommendation of the Advisory Committee;

''(ii) publish a proposed rule in the Federal Register to add such health condition, in accordance with subparagraph (D);

''(iii) publish in the Federal Register the Administrator's determination not to publish such a proposed rule and the basis for such determination; or

''(iv) publish in the Federal Register a determination that insufficient evidence exists to take action under clauses (i) through (iii).

''(C) ACTION BY ADVISORY COMMITTEE.—In the case that the Administrator requests a recommendation of the Advisory Committee under this paragraph, with respect to adding a health condition to the list in paragraph (3), the Advisory Committee shall submit to the Administrator such recommendation not later than 60 days after the date of such request or by such date (not to exceed 180 days after such date of request) as specified by the Administrator. Not later than 60 days after the date of receipt of such recommendation, the Administrator shall, in accordance with subparagraph (D), publish in the Federal Register a proposed rule with respect to such recommendation or a determination not to propose such a proposed rule and the basis for such determination.

''(D) PUBLICATION.—The WTC Program Administrator shall, with respect to any proposed rule under this paragraph—

''(i) publish such proposed rule in accordance with section 553 of title 5, United States Code; and

''(ii) provide interested parties a period of 30 days after such publication to submit written comments on the proposed rule.

The WTC Program Administrator may extend the period described in clause (ii) upon a finding of good cause. In the case of such an extension, the Administrator shall publish such extension in the Federal Register.

''(E) INTERESTED PARTY DEFINED.—For purposes of this paragraph, the term 'interested party' includes a representative of any organization representing WTC responders, a nationally recognized medical association, a Clinical or Data Center, a State or political subdivision, or any other interested person.

''(b) COVERAGE OF TREATMENT FOR WTC-RELATED HEALTH CONDITIONS.—

''(1) DETERMINATION FOR ENROLLED WTC RESPONDERS BASED ON A WTC-RELATED HEALTH CONDITION.—

''(A) IN GENERAL.—If a physician at a Clinical Center of Excellence that is providing monitoring benefits under section 3311 for an enrolled WTC responder makes a determination that the responder has a WTC-related health condition that is in the list in subsection (a)(3) and that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 1, 2001, terrorist attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition—

''(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the medical facts supporting such determination; and

''(ii) on and after the date of such transmittal and subject to subparagraph (B), the WTC Program shall provide for payment under subsection (c) for medically necessary treatment for such condition.

''(B) REVIEW; CERTIFICATION; APPEALS.—

''(i) REVIEW.—A Federal employee designated by the WTC Program Administrator shall review determinations made under subparagraph (A).

''(ii) CERTIFICATION.—The Administrator shall provide a certification of such condition based upon reviews conducted under clause (i). Such a certification shall be provided unless the Administrator determines that the responder's condition is not a WTC-related health condition in the list in subsection (a)(3) or that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 1, 2001, terrorist attacks is not substantially likely to be a significant factor in aggravating, contributing to, or causing the condition.

''(iii) APPEAL PROCESS.—The Administrator shall establish, by rule, a process for the appeal of determinations under clause (ii).

''(2) DETERMINATION BASED ON MEDICALLY ASSOCIATED WTC-RELATED HEALTH CONDITIONS.—

''(A) IN GENERAL.—If a physician at a Clinical Center of Excellence determines pursuant to subsection (a) that the enrolled WTC responder has a health condition described in subsection (a)(1)(A) that is not in the list in subsection (a)(3) but which is medically associated with a WTC-related health condition—

''(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the facts supporting such determination; and

''(ii) the Administrator shall make a determination under subparagraph (B) with respect to such physician's determination.

''(B) PROCEDURES FOR REVIEW, CERTIFICATION, AND APPEAL.—The WTC Program Administrator shall, by rule, establish procedures for the review and certification of physician determinations under subparagraph (A). Such rule shall provide for—

''(i) the timely review of such a determination by a physician panel with appropriate expertise for the condition and recommendations to the WTC Program Administrator;

''(ii) not later than 60 days after the date of the transmittal under subparagraph (A)(i), a determination by the WTC Program Administrator on whether or not the condition involved is described in subsection (a)(1)(A) and is medically associated with a WTC-related health condition;

''(iii) certification in accordance with paragraph (1)(B)(ii) of coverage of such condition if determined to be described in subsection (a)(1)(A) and medically associated with a WTC-related health condition; and

''(iv) a process for appeals of determinations relating to such conditions.

''(C) INCLUSION IN LIST OF HEALTH CONDITIONS.—If the WTC Program Administrator provides certification under subparagraph (B)(iii) for coverage of a condition, the Administrator may, pursuant to subsection (a)(6), add the condition to the list in subsection (a)(3).

''(D) CONDITIONS ALREADY DECLINED FOR INCLUSION IN LIST.—If the WTC Program Administrator publishes a determination under subsection (a)(6)(B) not to include a condition in the list in subsection (a)(3), the WTC Program Administrator shall not provide certification under subparagraph (B)(iii) for coverage of the condition. In the case of an individual who is certified under subparagraph (B)(iii) with respect to such condition before the date of the publication of such determination the previous sentence shall not apply.

''(3) REQUIREMENT OF MEDICAL NECESSITY.—

''(A) IN GENERAL.—In providing treatment for a WTC-related health condition, a physician or other provider shall provide treatment that is medically necessary and in accordance with medical treatment protocols established under subsection (d).

''(B) REGULATIONS RELATING TO MEDICAL NECESSITY.—For the purpose of this title, the WTC Program Administrator shall issue regulations specifying a standard for determining medical necessity with respect to health care services and prescription pharmaceuticals, a process for determining whether treatment furnished and pharmaceuticals prescribed under this title meet such standard (including any prior authorization requirement), and a process for appeal of a determination under subsection (c)(3).

''(4) SCOPE OF TREATMENT COVERED.—

''(A) IN GENERAL.—The scope of treatment covered under this subsection includes services of physicians and other health care providers, diagnostic and laboratory tests, prescription drugs, inpatient and outpatient hospital services, and other medically necessary treatment.

''(B) PHARMACEUTICAL COVERAGE.—With respect to ensuring coverage of medically necessary outpatient prescription drugs, such drugs shall be provided, under arrangements made by the WTC Program Administrator, directly through participating Clinical Centers of Excellence or through one or more outside vendors.

''(C) TRANSPORTATION EXPENSES FOR NATIONWIDE NETWORK.—The WTC Program Administrator may provide for necessary and reasonable transportation and expenses incident to the securing of medically necessary treatment through the nationwide network under section 3313 involving travel of more than 250 miles and for which payment is made under this section in the same manner in which individuals may be furnished necessary and reasonable transportation and expenses incident to services involving travel of more than 250 miles under regulations implementing section 3629(c) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of Public Law 106–398; 42 U.S.C. 7384t(c)).

''(5) PROVISION OF TREATMENT PENDING CERTIFICATION.—With respect to an enrolled WTC responder for whom a determination is made by an examining physician under paragraph (1) or (2), but for whom the WTC Program Administrator has not yet determined whether to certify the determination, the WTC Program Administrator may establish by rule a process through which the Administrator may approve the provision of medical treatment under this subsection (and payment under subsection (c)) with respect to such responder and such responder's WTC-related health condition (under such terms and conditions as the Administrator may provide) until the Administrator makes a decision on whether to certify the determination.

''(c) PAYMENT FOR INITIAL HEALTH EVALUATION, MONITORING, AND TREATMENT OF WTC-RELATED HEALTH CONDITIONS.—

''(1) MEDICAL TREATMENT.—

''(A) USE OF FECA PAYMENT RATES.—

''(i) IN GENERAL.—Subject to clause (ii):

''(I) Subject to subparagraphs (B) and (C), the WTC Program Administrator shall reimburse costs for medically necessary treatment under this title for WTC-related health conditions according to the payment rates that would apply to the provision of such

treatment and services by the facility under the Federal Employees Compensation Act.

''(II) For treatment not covered under subclause (i) or subparagraph (B), the WTC Program Administrator shall establish by regulation a reimbursement rate for such treatment.

''(ii) EXCEPTION.—In no case shall payments for products or services under clause (i) be made at a rate higher than the Office of Worker's Compensation Programs in the Department Labor would pay for such products or services rendered at the time such products or services were provided.

''(B) PHARMACEUTICALS.—

''(i) IN GENERAL.—The WTC Program Administrator shall establish a program for paying for the medically necessary outpatient prescription pharmaceuticals prescribed under this title for WTC-related health conditions through one or more contracts with outside vendors.

''(ii) COMPETITIVE BIDDING.—Under such program the Administrator shall—

''(I) select one or more appropriate vendors through a Federal competitive bid process; and

''(II) select the lowest bidder (or bidders) meeting the requirements for providing pharmaceutical benefits for participants in the WTC Program.

''(iii) TREATMENT OF FDNY PARTICIPANTS.—Under such program the Administrator may enter into an agreement with a separate vendor to provide pharmaceutical benefits to enrolled WTC responders for whom the Clinical Center of Excellence is described in section 3305 if such an arrangement is deemed necessary and beneficial to the program by the WTC Program Administrator.

''(iv) PHARMACEUTICALS.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on whether existing Federal pharmaceutical purchasing programs can provide pharmaceutical benefits more efficiently and effectively than through the WTC program.

''(C) IMPROVING QUALITY AND EFFICIENCY THROUGH MODIFICATION OF PAYMENT AMOUNTS AND METHODOLOGIES.—The WTC Program Administrator may modify the amounts and methodologies for making payments for initial health evaluations, monitoring, or treatment, if, taking into account utilization and quality data furnished by the Clinical Centers of Excellence under section 3305(b)(1)(B)(iii), the Administrator determines that a bundling, capitation, pay for performance, or other payment methodology would better ensure high quality and efficient delivery of initial health evaluations, monitoring, or treatment to an enrolled WTC responder, screening-eligible WTC survivor, or certified-eligible WTC survivor.

''(2) MONITORING AND INITIAL HEALTH EVALUATION.—The WTC Program Administrator shall reimburse the costs of monitoring and the costs of an initial health evaluation provided under this title at a rate set by the Administrator by regulation.

''(3) DETERMINATION OF MEDICAL NECESSITY.—

''(A) REVIEW OF MEDICAL NECESSITY AND PROTOCOLS.—As part of the process for reimbursement or payment under this subsection, the WTC Program Administrator shall provide for the review of claims for reimbursement or payment for the provision of medical treatment to determine if such treatment is medically necessary and in accordance with medical treatment protocols established under subsection (d).

''(B) WITHHOLDING OF PAYMENT FOR MEDICALLY UNNECESSARY TREATMENT.—The Administrator shall withhold such reimbursement or payment for treatment that the Administrator determines is not medically necessary or is not in accordance with such medical treatment protocols.

''(d) MEDICAL TREATMENT PROTOCOLS.—

''(1) DEVELOPMENT.—The Data Centers shall develop medical treatment protocols for the treatment of enrolled WTC responders and certified-eligible WTC survivors for health conditions included in the applicable list of WTC-related health conditions.

''(2) APPROVAL.—The medical treatment protocols developed under paragraph (1) shall be subject to approval by the WTC Program Administrator.

''SEC. 3313. NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK.

''(a) IN GENERAL.—In order to ensure reasonable access to benefits under this subtitle for individuals who are enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors and who reside in any State, as defined in section 2(f), outside the New York metropolitan area, the WTC Program Administrator shall establish a nationwide network of health care providers to provide monitoring and treatment benefits and initial health evaluations near such individuals' areas of residence in such States. Nothing in this subsection shall be construed as preventing such individuals from being provided such monitoring and treatment benefits or initial health evaluation through any Clinical Center of Excellence.

''(b) NETWORK REQUIREMENTS.—Any health care provider participating in the network under subsection (a) shall—

''(1) meet criteria for credentialing established by the Data Centers;

''(2) follow the monitoring, initial health evaluation, and treatment protocols developed under section 3305(a)(2)(A)(ii);

''(3) collect and report data in accordance with section 3304; and

''(4) meet such fraud, quality assurance, and other requirements as the WTC Program Administrator establishes, including sections 1128 through 1128E of the Social Security Act, as applied by section 3301(d).

''(c) TRAINING AND TECHNICAL ASSISTANCE.—The WTC Program Administer may provide, including through contract, for the provision of training and technical assistance to health care providers participating in the network under subsection (a).

''(d) PROVISION OF SERVICES THROUGH THE VA.—

''(1) IN GENERAL.—The WTC Program Administrator may enter into an agreement with the Secretary of Veterans Affairs for the Secretary to provide services under this section through facilities of the Department of Veterans Affairs.

''(2) NATIONAL PROGRAM.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on whether the Department of Veterans Affairs can provide monitoring and treatment services to individuals under this section more efficiently and effectively than through the nationwide network to be established under subsection (a).

''PART 2—WTC SURVIVORS

''SEC. 3321. IDENTIFICATION AND INITIAL HEALTH EVALUATION OF SCREENING-ELIGIBLE AND CERTIFIED-ELIGIBLE WTC SURVIVORS.

''(a) IDENTIFICATION OF SCREENING-ELIGIBLE WTC SURVIVORS AND CERTIFIED-ELIGIBLE WTC SURVIVORS.—

''(1) SCREENING-ELIGIBLE WTC SURVIVORS.—

''(A) DEFINITION.—In this title, the term 'screening-eligible WTC survivor' means, subject to subparagraph (C) and paragraph (3), an individual who is described in any of the following clauses:

''(i) CURRENTLY IDENTIFIED SURVIVOR.—An individual, including a WTC responder, who has been identified as eligible for medical treatment and monitoring by the WTC Environmental Health Center as of the date of enactment of this title.

''(ii) SURVIVOR WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who is not a WTC responder, for purposes of the initial health evaluation under subsection (b), claims symptoms of a WTC-related health condition and meets any of the current eligibility criteria described in subparagraph (B).

''(iii) SURVIVOR WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who is not a WTC responder, for purposes of the initial health evaluation under subsection (b), claims symptoms of a WTC-related health condition and meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks as the WTC Administrator determines, after consultation with the Data Centers described in section 3305 and the WTC Scientific/Technical Advisory Committee and WTC Health Program Steering Committees under section 3302.

The Administrator shall not modify such criteria under clause (iii) on or after the date that the number of certifications for certified-eligible WTC survivors under paragraph (2)(B) has reached 80 percent of the limit described in paragraph (3) or on or after the date that the number of enrollments of WTC responders has reached 80 percent of the limit described in section 3311(a)(4).

''(B) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this subparagraph for an individual are that the individual is described in any of the following clauses:

''(i) A person who was present in the New York City disaster area in the dust or dust cloud on September 11, 2001.

''(ii) A person who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area for—

''(I) at least 4 days during the 4-month period beginning on September 11, 2001, and ending on January 10, 2002; or

''(II) at least 30 days during the period beginning on September 11, 2001, and ending on July 31, 2002.

''(iii) Any person who worked as a cleanup worker or performed maintenance work in the New York City disaster area during the 4-month period described in subparagraph (B)(i) and had extensive exposure to WTC dust as a result of such work.

''(iv) A person who was deemed eligible to receive a grant from the Lower Manhattan Development Corporation Residential Grant Program, who possessed a lease for a residence or purchased a residence in the New York City disaster area, and who resided in such residence during the period beginning on September 11, 2001, and ending on May 31, 2003.

''(v) A person whose place of employment—

''(I) at any time during the period beginning on September 11, 2001, and ending on May 31, 2003, was in the New York City disaster area; and

''(II) was deemed eligible to receive a grant from the Lower Manhattan Development Corporation WTC Small Firms Attraction and Retention Act program or other government incentive program designed to revitalize the lower Manhattan economy after the September 11, 2001, terrorist attacks.

''(C) APPLICATION AND DETERMINATION PROCESS FOR SCREENING ELIGIBILITY.—

''(i) IN GENERAL.—The WTC Program Administrator in consultation with the Data Centers shall establish a process for individuals, other than individuals described in subparagraph (A)(i), to be determined to be screening-eligible WTC survivors. Under such process—

''(I) there shall be no fee charged to the applicant for making an application for such determination;

''(II) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application;

''(III) the Administrator shall make such a determination relating to an applicant's compliance with this title and shall not determine that an individual is not so eligible or deny written documentation under clause (ii) to such individual unless the Administrator determines that—

''(aa) based on the application submitted, the individual does not meet the eligibility criteria; or

''(bb) the numerical limitation on certifications of certified-eligible WTC survivors set forth in paragraph (3) has been met; and

''(IV) an individual who is determined not to be a screening-eligible WTC survivor shall have an opportunity to appeal such determination in a manner established under such process.

''(ii) WRITTEN DOCUMENTATION OF SCREENING-ELIGIBILITY.—

''(I) IN GENERAL.—In the case of an individual who is described in subparagraph (A)(i) or who is determined under clause (i) (consistent with paragraph (3)) to be a screening-eligible WTC survivor, the WTC Program Administrator shall provide an appropriate written documentation of such fact.

''(II) TIMING.—

''(aa) CURRENTLY IDENTIFIED SURVIVORS.—In the case of an individual who is described in subparagraph (A)(i), the WTC Program Administrator shall provide the written documentation under subclause (I) not later than July 1, 2011.

''(bb) OTHER MEMBERS.—In the case of another individual who is determined under clause (i) and consistent with paragraph (3) to be a screening-eligible WTC survivor, the WTC Program Administrator shall provide the written documentation under subclause (I) at the time of such determination.

''(2) CERTIFIED-ELIGIBLE WTC SURVIVORS.—

''(A) DEFINITION.—The term 'certified-eligible WTC survivor' means, subject to paragraph (3), a screening-eligible WTC survivor who the WTC Program Administrator certifies under subparagraph (B) to be eligible for followup monitoring and treatment under this part.

''(B) CERTIFICATION OF ELIGIBILITY FOR MONITORING AND TREATMENT.—

''(i) IN GENERAL.—The WTC Program Administrator shall establish a certification process under which the Administrator shall provide appropriate certification to screening-eligible WTC survivors who, pursuant to the initial health evaluation under subsection (b), are determined to be eligible for followup monitoring and treatment under this part.

''(ii) TIMING.—

''(I) CURRENTLY IDENTIFIED SURVIVORS.—In the case of an individual who is described in paragraph (1)(A)(i), the WTC Program Administrator shall provide the certification under clause (i) not later than July 1, 2011.

''(II) OTHER MEMBERS.—In the case of another individual who is determined under clause (i) to be eligible for followup monitoring and treatment, the WTC Program Administrator shall provide the certification under such clause at the time of such determination.

''(3) NUMERICAL LIMITATION ON CERTIFIED-ELIGIBLE WTC SURVIVORS.—

''(A) IN GENERAL.—The total number of individuals not described in paragraph (1)(A)(i) who may be certified as certified-eligible WTC survivors under paragraph (2)(B) shall not exceed 25,000 at any time.

''(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

''(i) limit the number of certifications provided under paragraph (2)(B)—

''(I) in accordance with such subparagraph; and

''(II) to such number, as determined by the Administrator based on the best available information and subject to amounts made available under section 3351, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this title, with respect to all individuals receiving such certifications through the end of fiscal year 2020; and

''(ii) provide priority in such certifications in the order in which individuals apply for a determination under paragraph (2)(B).

''(4) DISQUALIFICATION OF INDIVIDUALS ON TERRORIST WATCH LIST.—No individual who is on the terrorist watch list maintained by the Department of Homeland Security shall qualify as a screening-eligible WTC survivor or a certified-eligible WTC survivor. Before determining any individual to be a screening-eligible WTC survivor under paragraph (1) or certifying any individual as a certified eligible WTC survivor under paragraph (2), the Administrator, in consultation with the Secretary of Homeland Security, shall determine whether the individual is on such list.

''(b) INITIAL HEALTH EVALUATION TO DETERMINE ELIGIBILITY FOR FOLLOWUP MONITORING OR TREATMENT.—

''(1) IN GENERAL.—In the case of a screening-eligible WTC survivor, the WTC Program shall provide for an initial health evaluation to determine if the survivor has a WTC-related health condition and is eligible for followup monitoring and treatment benefits under the WTC Program. Initial health evaluation protocols under section 3305(a)(2)(A)(ii) shall be subject to approval by the WTC Program Administrator.

''(2) INITIAL HEALTH EVALUATION PROVIDERS.—The initial health evaluation described in paragraph (1) shall be provided through a Clinical Center of Excellence with respect to the individual involved.

''(3) LIMITATION ON INITIAL HEALTH EVALUATION BENEFITS.—Benefits for an initial health evaluation under this part for a screening-eligible WTC survivor shall consist only of a single medical initial health evaluation consistent with initial health evaluation protocols described in paragraph (1). Nothing in this paragraph shall be construed as preventing such an individual from seeking additional medical initial health evaluations at the expense of the individual.

''SEC. 3322. FOLLOWUP MONITORING AND TREATMENT OF CERTIFIED-ELIGIBLE WTC SURVIVORS FOR WTC-RELATED HEALTH CONDITIONS.

''(a) IN GENERAL.—Subject to subsection (b), the provisions of sections 3311 and 3312 shall apply to followup monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors in the same manner as such provisions apply to the monitoring and treatment of WTC-related health conditions for enrolled WTC responders.

''(b) LIST OF WTC-RELATED HEALTH CONDITIONS FOR SURVIVORS.—The list of health conditions for screening-eligible WTC survivors and certified-eligible WTC survivors consists of the following:

''(1) AERODIGESTIVE DISORDERS.—

''(A) Interstitial lung diseases.

''(B) Chronic respiratory disorder—fumes/vapors.

''(C) Asthma.

''(D) Reactive airways dysfunction syndrome (RADS).

''(E) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

''(F) Chronic cough syndrome.

''(G) Upper airway hyperreactivity.

''(H) Chronic rhinosinusitis.

''(I) Chronic nasopharyngitis.

''(J) Chronic laryngitis.

''(K) Gastroesophageal reflux disorder (GERD).

''(L) Sleep apnea exacerbated by or related to a condition described in a previous clause.

''(2) MENTAL HEALTH CONDITIONS.—

''(A) Posttraumatic stress disorder (PTSD).

''(B) Major depressive disorder.

''(C) Panic disorder.

''(D) Generalized anxiety disorder.

''(E) Anxiety disorder (not otherwise specified).

''(F) Depression (not otherwise specified).

''(G) Acute stress disorder.

''(H) Dysthymic disorder.

''(I) Adjustment disorder.

''(J) Substance abuse.

''(3) ADDITIONAL CONDITIONS.—Any cancer (or type of cancer) or other condition added to the list in section 3312(a)(3) pursuant to paragraph (5) or (6) of section 3312(a), as such provisions are applied under subsection (a) with respect to certified-eligible WTC survivors.

''SEC. 3323. FOLLOWUP MONITORING AND TREATMENT OF OTHER INDIVIDUALS WITH WTC-RELATED HEALTH CONDITIONS.

''(a) IN GENERAL.—Subject to subsection (c), the provisions of section 3322 shall apply to the followup monitoring and treatment of WTC-related health conditions in the case of individuals described in subsection (b) in the same manner as such provisions apply to the followup monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors.

''(b) INDIVIDUALS DESCRIBED.—An individual described in this subsection is an individual who, regardless of location of residence—

''(1) is not an enrolled WTC responder or a certified-eligible WTC survivor; and

''(2) is diagnosed at a Clinical Center of Excellence with a WTC-related health condition for certified-eligible WTC survivors.

''(c) LIMITATION.—

''(1) IN GENERAL.—The WTC Program Administrator shall limit benefits for any fiscal year under subsection (a) in a manner so that payments under this section for such fiscal year do not exceed the amount specified in paragraph (2) for such fiscal year.

''(2) LIMITATION.—The amount specified in this paragraph for—

''(A) the last calendar quarter of fiscal year 2011 is $5,000,000;

''(B) fiscal year 2012 is $20,000,000; or

''(C) a succeeding fiscal year is the amount specified in this paragraph for the previous fiscal year increased by the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

''PART 3—PAYOR PROVISIONS

''SEC. 3331. PAYMENT OF CLAIMS.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), the cost of monitoring and treatment benefits and initial health evaluation benefits provided under parts 1 and 2 of this subtitle shall be paid for by the WTC Program from the World Trade Center Health Program Fund.

''(b) WORKERS' COMPENSATION PAYMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), payment for treatment under parts 1 and 2 of this subtitle of a WTC-related health condition of an individual that is work-related shall be reduced or recouped to the extent that the WTC Program Administrator determines that payment has been made, or can reasonably be expected to be made, under a workers' compensation law or plan of the United States, a State, or a locality, or other work-related injury or illness benefit plan of the employer of such individual, for such treatment. The provisions of clauses (iii), (iv), (v), and (vi) of paragraph (2)(B) of section 1862(b) of the Social Security Act and paragraphs (3) and (4) of such section shall apply to the recoupment under this subsection of a payment to the WTC Program (with respect to a workers' compensation law or plan, or other work-related injury or illness plan of the employer involved, and such individual) in the same manner as such provisions apply to the reimbursement of a payment under section 1862(b)(2) of such Act to the Secretary (with respect to such a law or plan and an individual entitled to benefits under title XVIII of such Act) except that any reference in such paragraph (4) to payment rates under title XVIII of the Social Security Act shall be deemed a reference to payment rates under this title.

''(2) EXCEPTION.—Paragraph (1) shall not apply for any quarter, with respect to any workers' compensation law or plan, including line of duty compensation, to which New York City is obligated to make payments, if, in accordance with terms specified under the contract under subsection (d)(1)(A), New York City has made the full payment required under such contract for such quarter.

''(3) RULES OF CONSTRUCTION.—Nothing in this title shall be construed to affect, modify, or relieve any obligations under a worker's compensation law or plan, other work-related injury or illness benefit plan of an employer, or any health insurance plan.

''(c) HEALTH INSURANCE COVERAGE.—

''(1) IN GENERAL.—In the case of an individual who has a WTC-related health condition that is not work-related and has health coverage for such condition through any public or private health plan (including health benefits under title XVIII, XIX, or XXI of the Social Security Act) the provisions of section 1862(b) of the Social Security Act shall apply to such a health plan and such individual in the same manner as they apply to group health plan and an individual entitled to benefits under title XVIII of such Act pursuant to section 226(a) of such Act. Any costs for items and services covered under such plan that are not reimbursed by such health plan, due to the application of deductibles, copayments, coinsurance, other cost sharing, or otherwise, are reimbursable under this title to the extent that they are covered under the WTC Program. The program under this title shall not be treated as a legally liable party for purposes of applying section 1902(a)(25) of the Social Security Act.

''(2) RECOVERY BY INDIVIDUAL PROVIDERS.—Nothing in paragraph (1) shall be construed as requiring an entity providing monitoring and treatment under this title to seek reimbursement under a health plan with which the entity has no contract for reimbursement.

''(3) MAINTENANCE OF REQUIRED MINIMUM ESSENTIAL COVERAGE.—No payment may be made for monitoring and treatment under this title for an individual for a month (beginning with July 2014) if with respect to such month the individual—

''(A) is an applicable individual (as defined in subsection (d) of section 5000A of Internal Revenue Code of 1986) for whom the exemption under subsection (e) of such section does not apply; and

''(B) is not covered under minimum essential coverage, as required under subsection (a) of such section.

''(d) REQUIRED CONTRIBUTION BY NEW YORK CITY IN PROGRAM COSTS.—

''(1) CONTRACT REQUIREMENT.—

''(A) IN GENERAL.—No funds may be disbursed from the World Trade Center Health Program Fund under section 3351 unless New York City has entered into a contract with the WTC Program Administrator under which New York City agrees, in a form and manner specified by the Administrator, to pay the full contribution described in subparagraph (B) in accordance with this subsection on a timely basis, plus any interest owed pursuant to subparagraph (E)(i). Such contract shall specify the terms under which New York City shall be considered to have made the full payment required for a quarter for purposes of subsection (b)(2).

''(B) FULL CONTRIBUTION AMOUNT.—Under such contract, with respect to the last calendar quarter of fiscal year 2011 and each calendar quarter in fiscal years 2012 through 2015 the full contribution amount under this subparagraph shall be equal to 10 percent of the expenditures in carrying out this title for the respective quarter and with respect to calendar quarters in fiscal year 2016, such full contribution amount shall be equal to 1/9 of the Federal expenditures in carrying out this title for the respective quarter.

''(C) SATISFACTION OF PAYMENT OBLIGATION.—The payment obligation under such contract may not be satisfied through any of the following:

''(i) An amount derived from Federal sources.

''(ii) An amount paid before the date of the enactment of this title.

''(iii) An amount paid to satisfy a judgment or as part of a settlement related to injuries or illnesses arising out of the September 11, 2001, terrorist attacks.

''(D) TIMING OF CONTRIBUTION.—The payment obligation under such contract for a calendar quarter in a fiscal year shall be paid not later than the last day of the second succeeding calendar quarter.

''(E) COMPLIANCE.—

''(i) INTEREST FOR LATE PAYMENT.—If New York City fails to pay to the WTC Program Administrator pursuant to such contract the amount required for any calendar quarter by the day specified in subparagraph (D), interest shall accrue on the amount not so paid at the rate (determined by the Administrator) based on the average yield to maturity, plus 1 percentage point, on outstanding municipal bonds issued by New York City with a remaining maturity of at least 1 year.

''(ii) RECOVERY OF AMOUNTS OWED.—The amounts owed to the WTC Program Administrator under such contract shall be recoverable by the United States in an action in the same manner as payments made under title XVIII of the Social Security Act may be recoverable in an action brought under section 1862(b)(2)(B)(iii) of such Act.

''(F) DEPOSIT IN FUND.—The WTC Program Administer shall deposit amounts paid under such contract into the World Trade Center Health Program Fund under section 3351.

''(2) PAYMENT OF NEW YORK CITY SHARE OF MONITORING AND TREATMENT COSTS.—With respect to each calendar quarter for which a contribution is required by New York City under the contract under paragraph (1), the WTC Program Administrator shall—

''(A) provide New York City with an estimate of such amount of the required contribution at the beginning of such quarter and with an updated estimate of such amount at the beginning of each of the subsequent 2 quarters;

''(B) bill such amount directly to New York City; and

''(C) certify periodically, for purposes of this subsection, whether or not New York City has paid the amount so billed.

Such amount shall initially be estimated by the WTC Program Administrator and shall be subject to adjustment and reconciliation based upon actual expenditures in carrying out this title.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing the WTC Administrator, with respect to a fiscal year, to reduce the numerical limitation under section 3311(a)(4) or 3321(a)(3) for such fiscal year if New York City fails to comply with paragraph (1) for a calendar quarter in such fiscal year.

''(e) WORK-RELATED DESCRIBED.—For the purposes of this section, a WTC-related health condition shall be treated as a condition that is work-related if—

''(1) the condition is diagnosed in an enrolled WTC responder, or in an individual who qualifies as a certified-eligible WTC survivor on the basis of being a rescue, recovery, or cleanup worker; or

''(2) with respect to the condition the individual has filed and had established a claim under a workers' compensation law or plan of the United States or a State, or other work-related injury or illness benefit plan of the employer of such individual.

"SEC. 3332. ADMINISTRATIVE ARRANGEMENT AUTHORITY.

''The WTC Program Administrator may enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for timely and accurate processing of claims under sections 3312, 3313, 3322, and 3323.

"Subtitle C—Research Into Conditions

"SEC. 3341. RESEARCH REGARDING CERTAIN HEALTH CONDITIONS RELATED TO SEPTEMBER 11 TERRORIST ATTACKS.

''(a) IN GENERAL.—With respect to individuals, including enrolled WTC responders and certified-eligible WTC survivors, receiving monitoring or treatment under subtitle B, the WTC Program Administrator shall conduct or support—

''(1) research on physical and mental health conditions that may be related to the September 11, 2001, terrorist attacks;

''(2) research on diagnosing WTC-related health conditions of such individuals, in the case of conditions for which there has been diagnostic uncertainty; and

''(3) research on treating WTC-related health conditions of such individuals, in the case of conditions for which there has been treatment uncertainty.

The Administrator may provide such support through continuation and expansion of research that was initiated before the date of the enactment of this title and through the World Trade Center Health Registry (referred to in section 3342), through a Clinical Center of Excellence, or through a Data Center.

''(b) TYPES OF RESEARCH.—The research under subsection (a)(1) shall include epidemiologic and other research studies on WTC-related health conditions or emerging conditions—

''(1) among enrolled WTC responders and certified-eligible WTC survivors under treatment; and

''(2) in sampled populations outside the New York City disaster area in Manhattan as far north as 14th Street and in Brooklyn, along with control populations, to identify potential for long-term adverse health effects in less exposed populations.

''(c) CONSULTATION.—The WTC Program Administrator shall carry out this section in

consultation with the WTC Scientific/Technical Advisory Committee.

''(d) APPLICATION OF PRIVACY AND HUMAN SUBJECT PROTECTIONS.—The privacy and human subject protections applicable to research conducted under this section shall not be less than such protections applicable to research conducted or funded by the Department of Health and Human Services.

''SEC. 3342. WORLD TRADE CENTER HEALTH REGISTRY.

''For the purpose of ensuring ongoing data collection relating to victims of the September 11, 2001, terrorist attacks, the WTC Program Administrator shall ensure that a registry of such victims is maintained that is at least as comprehensive as the World Trade Center Health Registry maintained under the arrangements in effect as of April 20, 2009, with the New York City Department of Health and Mental Hygiene.

''Subtitle D—Funding

''SEC. 3351. WORLD TRADE CENTER HEALTH PROGRAM FUND.

''(a) ESTABLISHMENT OF FUND.—

''(1) IN GENERAL.—There is established a fund to be known as the World Trade Center Health Program Fund (referred to in this section as the 'Fund').

''(2) FUNDING.—Out of any money in the Treasury not otherwise appropriated, there shall be deposited into the Fund for each of fiscal years 2012 through 2016 (and the last calendar quarter of fiscal year 2011)—

''(A) the Federal share, consisting of an amount equal to the lesser of—

''(i) 90 percent of the expenditures in carrying out this title for the respective fiscal year (initially based on estimates, subject to subsequent reconciliation based on actual expenditures); or

''(ii)(I) $71,000,000 for the last calendar quarter of fiscal year 2011, $318,000,000 for fiscal year 2012, $354,000,000 for fiscal year 2013, $382,000,000 for fiscal year 2014, and $431,000,000 for fiscal year 2015; and

''(II) subject to paragraph (4), an additional amount for fiscal year 2016 from unexpended amounts for previous fiscal years; plus

''(B) the New York City share, consisting of the amount contributed under the contra ct under section 3331(d).

''(3) CONTRACT REQUIREMENT.—

''(A) IN GENERAL.—No funds may be disbursed from the Fund unless New York City has entered into a contract with the WTC Program Administrator under section 3331(d)(1).

''(B) BREACH OF CONTRACT.—In the case of a failure to pay the amount so required under the contract—

''(i) the amount is recoverable under subparagraph (E)(ii) of such section;

''(ii) such failure shall not affect the disbursement of amounts from the Fund; and

''(iii) the Federal share described in paragraph (2)(A) shall not be increased by the amount so unpaid.

''(4) AGGREGATE LIMITATION ON FUNDING BEGINNING WITH FISCAL YEAR 2016.—Beginning with fiscal year 2016, in no case shall the share of Federal funds deposited into the Fund under paragraph (2) for such fiscal year and previous fiscal years and quarters exceed the sum of the amounts specified in paragraph (2)(A)(ii)(I).

''(b) MANDATORY FUNDS FOR MONITORING, INITIAL HEALTH EVALUATIONS, TREATMENT, AND CLAIMS PROCESSING.—

''(1) IN GENERAL.—The amounts deposited into the Fund under subsection (a)(2) shall be available, without further appropriation, consistent with paragraph (2) and subsection (c), to carry out subtitle B and sections 3302(a), 3303, 3304, 3305(a)(2), 3305(c), 3341, and 3342.

''(2) LIMITATION ON MANDATORY FUNDING.—This title does not establish any Federal obligation for payment of amounts in excess of the amounts available from the Fund for such purpose.

''(3) LIMITATION ON AUTHORIZATION FOR FURTHER APPROPRIATIONS.—This title does not establish any authorization for appropriation of amounts in excess of the amounts available from the Fund under paragraph (1).

''(c) LIMITS ON SPENDING FOR CERTAIN PURPOSES.—Of the amounts made available under subsection (b)(1), not more than each of the following amounts may be available for each of the following purposes:

''(1) SURVIVING IMMEDIATE FAMILY MEMBERS OF FIREFIGHTERS.—For the purposes of carrying out subtitle B with respect to WTC responders described in section 3311(a)(2)(A)(ii)—

''(A) for the last calendar quarter of fiscal year 2011, $100,000;

''(B) for fiscal year 2012, $400,000; and

''(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

''(2) WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE.—For the purpose of carrying out section 3302(a)—

''(A) for the last calendar quarter of fiscal year 2011, $25,000;

''(B) for fiscal year 2012, $100,000; and

''(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

''(3) EDUCATION AND OUTREACH.—For the purpose of carrying out section 3303—

''(A) for the last calendar quarter of fiscal year 2011, $500,000;

''(B) for fiscal year 2012, $2,000,000; and

''(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

''(4) UNIFORM DATA COLLECTION.—For the purpose of carrying out section 3304 and for reimbursing Data Centers (as defined in section 3305(b)(2)) for the costs incurred by such Centers in carrying out activities under contracts entered into under section 3305(a)(2)—

''(A) for the last calendar quarter of fiscal year 2011, $2,500,000;

''(B) for fiscal year 2012, $10,000,000; and

''(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

''(5) RESEARCH REGARDING CERTAIN HEALTH CONDITIONS.—For the purpose of carrying out section 3341—

''(A) for the last calendar quarter of fiscal year 2011, $3,750,000;

''(B) for fiscal year 2012, $15,000,000; and

''(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

''(6) WORLD TRADE CENTER HEALTH REGISTRY.—For the purpose of carrying out section 3342—

''(A) for the last calendar quarter of fiscal year 2011, $1,750,000;

''(B) for fiscal year 2012, $7,000,000; and

''(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.''.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

SEC. 201. DEFINITIONS.

Section 402 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in paragraph (6) by inserting '', or debris removal, including under the World Trade Center Health Program established under section 3001 of the Public Health Service Act, and payments made pursuant to the settlement of a civil action described in section 405(c)(3)(C)(iii)'' after ''September 11, 2001'';

(2) by inserting after paragraph (6) the following new paragraphs and redesignating subsequent paragraphs accordingly:

''(7) CONTRACTOR AND SUBCONTRACTOR.—The term 'contractor and subcontractor' means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

''(8) DEBRIS REMOVAL.—The term 'debris removal' means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.'';

(3) by inserting after paragraph (10), as so redesignated, the following new paragraph and redesignating the subsequent paragraphs accordingly:

''(11) IMMEDIATE AFTERMATH.—The term 'immediate aftermath' means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on May 30, 2002.''; and

(4) by adding at the end the following new paragraph:

''(14) 9/11 CRASH SITE.—The term '9/11 crash site' means—

''(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

''(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

''(C) any area contiguous to a site of such crashes that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals); and

''(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.''.

SEC. 202. EXTENDED AND EXPANDED ELIGIBILITY FOR COMPENSATION.

(a) INFORMATION ON LOSSES RESULTING FROM DEBRIS REMOVAL INCLUDED IN CONTENTS OF CLAIM FORM.—Section 405(a)(2)(B) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in clause (i), by inserting '', or debris removal during the immediate aftermath'' after ''September 11, 2001'';

(2) in clause (ii), by inserting ''or debris removal during the immediate aftermath'' after ''crashes''; and

(3) in clause (iii), by inserting ''or debris removal during the immediate aftermath'' after ''crashes''.

(b) EXTENSION OF DEADLINE FOR CLAIMS UNDER SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001.—Section 405(a)(3) of such Act is amended to read as follows:

''(3) LIMITATION.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a).

''(B) EXCEPTION.—A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b) and ending on the date that is 5 years after the date on which such regulations are updated.''.

(c) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—Section 405(c)(3) of such Act is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

''(A) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—

''(i) TIMING REQUIREMENTS FOR FILING CLAIMS.—An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

''(I) In the case that the Special Master determines the individual knew (or reasonably should have known) before the date specified in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the date that is 2 years after such specified date.

''(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the last day of the 2-year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title.

''(ii) OTHER ELIGIBILITY REQUIREMENTS FOR FILING CLAIMS.—An individual may file a claim during the period described in subsection (a)(3)(B) only if—

''(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

''(II) the individual's physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

''(iii) DATE SPECIFIED.—The date specified in this clause is the date on which the regulations are updated under section 407(a).''.

(d) CLARIFYING APPLICABILITY TO ALL 9/11 CRASH SITES.—Section 405(c)(2)(A)(i) of such Act is amended by striking ''or the site of the aircraft crash at Shanksville, Pennsylvania'' and inserting ''the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site''.

(e) INCLUSION OF PHYSICAL HARM RESULTING FROM DEBRIS REMOVAL.—Section 405(c) of such Act is amended in paragraph (2)(A)(ii), by inserting ''or debris removal'' after ''air crash''.

(f) LIMITATIONS ON CIVIL ACTIONS.—

(1) APPLICATION TO DAMAGES RELATED TO DEBRIS REMOVAL.—Clause (i) of section 405(c)(3)(C) of such Act, as redesignated by subsection (c), is amended by inserting '', or for damages arising from or related to debris removal'' after ''September 11, 2001''.

(2) PENDING ACTIONS.—Clause (ii) of such section, as so redesignated, is amended to read as follows:

''(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title—

''(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

''(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b).''.

(3) SETTLED ACTIONS.—Such section, as so redesignated, is further amended by adding at the end the following new clause:

''(iii) SETTLED ACTIONS.—In the case of an individual who settled a civil action described in clause (i), such individual may not submit a claim under this title unless such action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to the date on which the James Zadroga 9/11 Health and Compensation Act of 2010 was enacted.''.

SEC. 203. REQUIREMENT TO UPDATE REGULATIONS.

Section 407 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) by striking ''Not later than'' and inserting ''(a) IN GENERAL.—Not later than''; and

(2) by adding at the end the following new subsection:

''(b) UPDATED REGULATIONS.—Not later than 180 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010, the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act.''.

SEC. 204. LIMITED LIABILITY FOR CERTAIN CLAIMS.

Section 408(a) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended by adding at the end the following new paragraphs:

''(4) LIABILITY FOR CERTAIN CLAIMS.—Notwithstanding any other provision of law, liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors, shall not be in an amount that exceeds the sum of the following, as may be applicable:

''(A) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

''(B) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

''(C) As it relates to the limitation of liability of the City of New York, the amount that is the greater of the City of New York's insurance coverage or $350,000,000. In determining the amount of the City's insurance coverage for purposes of the previous sentence, any amount described in subparagraphs (A) and (B) shall not be included.

''(D) As it relates to the limitation of liability of any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect), the amount of all available liability insurance coverage maintained by any such entity.

''(E) As it relates to the limitation of liability of any individual contractor or subcontractor, the amount of all available liability insurance coverage maintained by such contractor or subcontractor on September 11, 2001.

''(5) PRIORITY OF CLAIMS PAYMENTS.—Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4) applies, shall be paid solely from the following funds in the following order, as may be applicable:

''(A) The funds described in subparagraph (A) or (B) of paragraph (4).

''(B) If there are no funds available as described in subparagraph (A) or (B) of paragraph (4), the funds described in subparagraph (C) of such paragraph.

''(C) If there are no funds available as described in subparagraph (A), (B), or (C) of paragraph (4), the funds described in subparagraph (D) of such paragraph.

''(D) If there are no funds available as described in subparagraph (A), (B), (C), or (D) of paragraph (4), the funds described in subparagraph (E) of such paragraph.

''(6) DECLARATORY JUDGMENT ACTIONS AND DIRECT ACTION.—Any claimant to a claim or action to which paragraph (4) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved, except that no such action for declaratory judgment or direct action may be commenced until after the funds available in subparagraph (A), (B), (C), and (D) of paragraph (5) have been exhausted consistent with the order described in such paragraph for payment.''.

SEC. 205. FUNDING; ATTORNEY FEES.

Section 406 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in subsection (a), by striking ''Not later than'' and inserting ''Subject to the limitations under subsection (d), not later than'';

(2) in subsection (b)—

(A) by inserting ''in the amounts provided under subsection (d)(1)'' after ''appropriations Acts''; and

(B) by inserting ''subject to the limitations under subsection (d)'' before the period; and

(3) by adding at the end the following new subsections:

''(d) LIMITATION.—

''(1) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims filed on or after the date on which the regulations are updated under section 407(b), shall not exceed $2,775,000,000. Of such amounts, not to exceed $875,000,000 shall be available to pay such claims during the 5-year period beginning on such date.

''(2) PRO-RATION AND PAYMENT OF REMAINING CLAIMS.—

''(A) IN GENERAL.—The Special Master shall ratably reduce the amount of compensation due claimants under this title in a manner to ensure, to the extent possible, that—

''(i) all claimants who, before application of the limitation under the second sentence of paragraph (1), would have been determined to be entitled to a payment under this title during such 5-year period, receive a payment during such period; and

''(ii) the total amount of all such payments made during such 5-year period do not exceed the amount available under the second sentence of paragraph (1) to pay claims during such period.

''(B) PAYMENT OF REMAINDER OF CLAIM AMOUNTS.—In any case in which the amount of a claim is ratably reduced pursuant to subparagraph (A), on or after the first day after the 5-year period described in paragraph (1), but in no event later than 1 year after such 5-year period, the Special Master shall pay to the claimant the amount that is equal to the difference between—

''(i) the amount that the claimant would have been paid under this title during such period without regard to the limitation under the second sentence of paragraph (1) applicable to such period; and

''(ii) the amount the claimant was paid under this title during such period.

''(C) TERMINATION.—Upon completion of all payments pursuant to this subsection, the Victim's Compensation Fund shall be permanently closed.

''(e) ATTORNEY FEES.—

''(1) IN GENERAL.—Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, more than 10 percent of an award made under this title on such claim.

''(2) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii), the representative of the individual may not charge any amount for compensation for services rendered in connection with a claim filed under this title.

''(B) EXCEPTION.—If the legal fee charged in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative of such individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than—

''(i) 10 percent of such aggregate amount through the settlement, minus

''(ii) the total amount of all legal fees charged for services rendered in connection with such settlement.

''(3) DISCRETION TO LOWER FEE.—In the event that the special master finds that the fee limit set by paragraph (1) or (2) provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (1).''.

TITLE III—REVENUE RELATED PROVISIONS

SEC. 301. EXCISE TAX ON CERTAIN FOREIGN PROCUREMENT.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

''CHAPTER 50—FOREIGN PROCUREMENT

''Sec. 5000C. Imposition of tax on certain foreign procurement.

''SEC. 5000C. IMPOSITION OF TAX ON CERTAIN FOREIGN PROCUREMENT.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any foreign person that receives a specified Federal procurement payment a tax equal to 2 percent of the amount of such specified Federal procurement payment.

''(b) SPECIFIED FEDERAL PROCUREMENT PAYMENT.—For purposes of this section, the term 'specified Federal procurement payment' means any payment made pursuant to a contract with the Government of the United States for—

''(1) the provision of goods, if such goods are manufactured or produced in any country which is not a party to an international procurement agreement with the United States, or

''(2) the provision of services, if such services are provided in any country which is not a party to an international procurement agreement with the United States.

''(c) FOREIGN PERSON.—For purposes of this section, the term 'foreign person' means any person other than a United States person.

''(d) ADMINISTRATIVE PROVISIONS.—

''(1) WITHHOLDING.—The amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed by this section on such payment.

''(2) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.''.

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''CHAPTER 50—FOREIGN PROCUREMENT''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments received pursuant to contracts entered into on and after the date of the enactment of this Act.

(b) PROHIBITION ON REIMBURSEMENT OF FEES.—

(1) IN GENERAL.—The head of each executive agency shall take any and all measures necessary to ensure that no funds are disbursed to any foreign contractor in order to reimburse the tax imposed under section 5000C of the Internal Revenue Code of 1986.

(2) ANNUAL REVIEW.—The Administrator for Federal Procurement Policy shall annually review the contracting activities of each executive agency to monitor compliance with the requirements of paragraph (1).

(3) EXECUTIVE AGENCY.—For purposes of this subsection, the term ''executive agency'' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) APPLICATION.—This section and the amendments made by this section shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 302. RENEWAL OF FEES FOR VISA-DEPENDENT EMPLOYERS.

Subsections (a), (b), and (c) of section 402 of Public Law 111-230 are amended by striking ''2014'' each place that such appears and inserting ''2015''.

TITLE IV—BUDGETARY EFFECTS

SEC. 401. COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010.

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.

SA 4924. Mr. BROWN of Ohio (for himself, Mr. CASEY, Mr. BAUCUS, Mr. MCCAIN, and Mr. KYL) proposed an amendment to the bill H.R. 6517, to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Omnibus Trade Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE AND HEALTH COVERAGE IMPROVEMENT

Subtitle A—Extension of Trade Adjustment Assistance

Sec. 101. Extension of trade adjustment assistance.

Sec. 102. Merit staffing for State administration of trade adjustment assistance.

Subtitle B—Health Coverage Improvement

Sec. 111. Improvement of the affordability of the credit.

Sec. 112. Payment for the monthly premiums paid prior to commencement of the advance payments of credit.

Sec. 113. TAA recipients not enrolled in training programs eligible for credit.

Sec. 114. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.

Sec. 115. Continued qualification of family members after certain events.

Sec. 116. Extension of COBRA benefits for certain TAA-eligible individuals and PBGC recipients.

Sec. 117. Addition of coverage through voluntary employees' beneficiary associations.

Sec. 118. Notice requirements.

TITLE II—ANDEAN TRADE PREFERENCES ACT

Sec. 201. Extension of Andean Trade Preference Act.

TITLE III—OFFSETS

Sec. 301. Customs user fees.

Sec. 302. Time for payment of corporate estimated taxes.

TITLE IV—BUDGETARY EFFECTS

Sec. 401. Compliance with PAYGO.

TITLE I—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE AND HEALTH COVERAGE IMPROVEMENT

Subtitle A—Extension of Trade Adjustment Assistance

SEC. 101. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 1893(a) of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111–5; 123 Stat.

422) is amended by striking ''January 1, 2011'' each place it appears and inserting ''Febrary 13, 2011''.

(b) APPLICATION OF PRIOR LAW.—Section 1893(b) of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111–5; 123 Stat. 422 (19 U.S.C. 2271 note prec.)) is amended to read as follows:

''(b) APPLICATION OF PRIOR LAW.—Chapters 2, 3, 4, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall be applied and administered beginning February 13, 2011, as if the amendments made by this subtitle (other than part VI) had never been enacted, except that in applying and administering such chapters—

''(1) section 245 of that Act shall be applied and administered by substituting 'February 12, 2012' for 'December 31, 2007';

''(2) section 246(b)(1) of that Act shall be applied and administered by substituting 'February 12, 2012' for 'the date that is 5 years' and all that follows through 'State';

''(3) section 256(b) of that Act shall be applied and administered by substituting 'the 1-year period beginning February 13, 2011, and ending February 12. 2012,' for 'each of fiscal years 2003 through 2007, and $4,000,000 for the 3-month period beginning on October 1, 2007,';

''(4) section 298(a) of that Act shall be applied and administered by substituting 'the 1-year period beginning February 13, 2011, and ending February 12. 2012,' for 'each of the fiscal years' and all that follows through 'October 1, 2007'; and

''(5) subject to subsection (a)(2), section 285 of that Act shall be applied and administered—

''(A) in subsection (a), by substituting 'February 12, 2011' for 'December 31, 2007' each place it appears; and

''(B) by applying and administering subsection (b) as if it read as follows:

'' '(b) OTHER ASSISTANCE.—

'' '(1) ASSISTANCE FOR FIRMS.—

'' '(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 3 after February 12, 2012.

'' '(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 3 on or before February 12, 2012, may be provided—

'' '(i) to the extent funds are available pursuant to such chapter for such purpose; and

'' '(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.

'' '(2) FARMERS.—

'' '(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 6 after February 12, 2012.

'' '(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 6 on or before February 12, 2012, may be provided—

'' '(i) to the extent funds are available pursuant to such chapter for such purpose; and

'' '(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.'.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended to read as follows:

''(2)(A) The total amount of payments that may be made under paragraph (1) shall not exceed—

''(i) $575,000,000 for fiscal year 2010; and

''(ii) $66,500,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.''.

(2) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(3) Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(4) Section 255(a) of the Trade Act of 1974 (19 U.S.C. 2345(a)) is amended—

(A) in the first sentence to read as follows: ''There are authorized to be appropriated to the Secretary to carry out the provisions of this chapter $50,000,000 for fiscal year 2010 and $5,800,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.''; and

(B) in paragraph (1), by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(5) Section 275(f) of the Trade Act of 1974 (19 U.S.C. 2371d(f)) is amended by striking ''2011'' and inserting ''and annually thereafter''.

(6) Section 276(c)(2) of the Trade Act of 1974 (19 U.S.C. 2371e(c)(2)) is amended to read as follows:

''(2) FUNDS TO BE USED.—Of the funds appropriated pursuant to section 277(c), the Secretary may make available, to provide grants to eligible communities under paragraph (1), not more than—

''(A) $25,000,000 for fiscal year 2010; and

''(B) $2,900,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.''.

(7) Section 277(c) of the Trade Act of 1974 (19 U.S.C. 2371f(c)) is amended—

(A) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this subchapter—

''(A) $150,000,000 for fiscal year 2010; and

''(B) $17,3000 for the 6-week period beginning January 1, 2011 and ending February 12, 2011.''; and

(B) in paragraph (2)(A), by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(8) Section 278(e) of the Trade Act of 1974 (19 U.S.C. 2372(e)) is amended by striking ''2011'' and inserting ''and annually thereafter''.

(9) Section 279A(h)(2) of the Trade Act of 1974 (19 U.S.C. 2373(h)(2)) is amended by striking ''2011'' and inserting ''and annually thereafter''.

(10) Section 279B(a) of the Trade Act of 1974 (19 U.S.C. 2373a(a)) is amended to read as follows:

''(a) IN GENERAL.—

''(1) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Labor to carry out the Sector Partnership Grant program under section 279A—

''(A) $40,000,000 for fiscal year 2010; and

''(B) $4,600,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.

''(2) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall remain available until expended.''.

(11) Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended—

(A) by striking ''December 31, 2010'' each place it appears and inserting ''February 12, 2011''; and

(B) in subsection (a)(2)(A), by inserting ''pursuant to petitions filed under section 221 before February 12, 2011'' after ''title''.

(12) Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking ''$90,000,000 for each of the fiscal years 2009 and 2010, and $22,500,000 for the period beginning October 1, 2010, and ending December 31, 2010'' and inserting ''$10,400,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011''.

(13) The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 235 and inserting the following:

''Sec. 235. Employment and case management services.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 102. MERIT STAFFING FOR STATE ADMINISTRATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Notwithstanding section 618.890(b) of title 20, Code of Federal Regulations, or any other provision of law, the single transition deadline for implementing the merit-based State personnel staffing requirements contained in section 618.890(a) of title 20, Code of Federal Regulations, shall not be earlier than February 12, 2011.

(b) EFFECTIVE DATE.—This section shall take effect on December 14, 2010.

Subtitle B—Health Coverage Improvement

SEC. 111. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 112. PAYMENT FOR THE MONTHLY PREMIUMS PAID PRIOR TO COMMENCEMENT OF THE ADVANCE PAYMENTS OF CREDIT.

(a) IN GENERAL.—Section 7527(e) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 113. TAA RECIPIENTS NOT ENROLLED IN TRAINING PROGRAMS ELIGIBLE FOR CREDIT.

(a) IN GENERAL.—Section 35(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 114. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) IRC AMENDMENT.—Section 9801(c)(2)(D) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(b) ERISA AMENDMENT.—Section 701(c)(2)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)(C)) is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(c) PHSA AMENDMENT.—Section 2701(c)(2)(C) of the Public Health Service Act (as in effect for plan years beginning before January 1, 2014) is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2010.

SEC. 115. CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.

(a) IN GENERAL.—Section 35(g)(9) of the Internal Revenue Code of 1986, as added by section 1899E(a) of the American Recovery and Reinvestment Tax Act of 2009 (relating to continued qualification of family members after certain events), is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(b) CONFORMING AMENDMENT.—Section 173(f)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(8)) is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2010.

SEC. 116. EXTENSION OF COBRA BENEFITS FOR CERTAIN TAA-ELIGIBLE INDIVIDUALS AND PBGC RECIPIENTS.

(a) ERISA AMENDMENTS.—

(1) PBGC RECIPIENTS.—Section 602(2)(A)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)(v)) is amended by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(2) TAA-ELIGIBLE INDIVIDUALS.—Section 602(2)(A)(vi) of such Act (29 U.S.C. 1162(2)(A)(vi)) is amended by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(b) IRC AMENDMENTS.—

(1) PBGC RECIPIENTS.—Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(2) TAA-ELIGIBLE INDIVIDUALS.—Section 4980B(f)(2)(B)(i)(VI) of such Code is amended by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(c) PHSA AMENDMENTS.—Section 2202(2)(A)(iv) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)(iv)) is amended by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods of coverage which would (without regard to the amendments made by this section) end on or after December 31, 2010.

SEC. 117. ADDITION OF COVERAGE THROUGH VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS.

(a) IN GENERAL.—Section 35(e)(1)(K) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2011'' and inserting ''February 13, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 118. NOTICE REQUIREMENTS.

(a) IN GENERAL.—Section 7527(d)(2) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2011'' and inserting ''February 13, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to certificates issued after December 31, 2010.

TITLE II—ANDEAN TRADE PREFERENCES ACT

SEC. 201. EXTENSION OF ANDEAN TRADE PREFERENCE ACT.

(a) EXTENSION.—Section 208(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3206(a)(1)) is amended to read as follows:

''(1) remain in effect—

''(A) with respect to Colombia after February 12, 2011; and

''(B) with respect to Peru after December 31, 2010;''.

(b) ECUADOR.—Section 208(a)(2) of the Andean Trade Preference Act (19 U.S.C. 3206(a)(2)) is amended by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(c) TREATMENT OF CERTAIN APPAREL ARTICLES.—Section 204(b)(3)(E)(ii)(II) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)) is amended (ii)(II), by striking ''December 31, 2010'' and inserting ''February 12, 2011''.

(d) ANNUAL REPORT.—Section 203(f)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(f)(1)) is amended by striking ''every 2 years'' and inserting ''annually''.

TITLE III—OFFSETS

SEC. 301. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking ''September 30, 2019'' and inserting ''January 7, 2020''; and

(2) in subparagraph (B)(i), by striking ''September 30, 2019'' and inserting ''January 14, 2020''.

SEC. 302. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.5 percentage points.

TITLE IV—BUDGETARY EFFECTS

SEC. 401. COMPLIANCE WITH PAYGO.

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.

ARTS IN EDUCATION WEEK

Mr. BAYH. Madam President, I ask unanimous consent that the Health, Education, Labor and Pensions Committee be discharged from further consideration of H. Con. Res. 275, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 275) expressing support for designation of the week beginning on the second Sunday of September as Arts in Education Week.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BAYH. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 275) was agreed to.

The preamble was agreed to.

HONORING THE WORK AND MISSION OF THE DELTA REGIONAL AUTHORITY

Mr. BAYH. I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration and the Senate now proceed to S. Con. Res. 78.

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

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 78) honoring the work and mission of the Delta Regional Authority on the occasion of the 10th anniversary of the Federal-State partnership created to uplift the 8-State Delta region.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BAYH. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 78) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 78

Whereas President Clinton, with the approval of Congress and the bipartisan support of congressional sponsors, representing the States of the Delta in both the House of Representatives and the Senate, launched the Delta Regional Authority on December 21, 2000, in an effort to alleviate the economic hardship facing the Delta region and to create a more level playing field for the counties and parishes of such States to compete for jobs and investment;

Whereas the Delta Regional Authority is a Federal-State partnership that serves 252 counties and parishes in parts of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

Whereas the Delta region holds great promise for access and trade, as the region borders the world's greatest transportation arterial in the Mississippi River;

Whereas the Delta boasts a strong cultural heritage as the birthplace of the blues and jazz music and as home to world famous cuisine, which people throughout the United States and the world identify with the region;

Whereas the counties and parishes served by the Delta Regional Authority constitute an economically-distressed area facing challenges such as undeveloped infrastructure systems, insufficient transportation options, struggling education systems, migration out of the region, substandard health care, and the needs to develop, recruit, and retain a qualified workforce and to build strong communities that attract new industries and employment opportunities;

Whereas the Delta Regional Authority has made significant progress toward addressing such challenges during its first 10 years of work;

Whereas the Delta Regional Authority operates a highly successful grant program in each of the 8 States it serves, allowing cities, counties, and parishes to leverage money from other Federal agencies and private investors;

Whereas the Delta Regional Authority has invested nearly $86,200,000 into more than 600 projects during the first decade of existence, leveraging $1,400,000,000 in private sector investment and producing an overall 22 to 1 return on taxpayer dollars;

Whereas the Delta Regional Authority is working with partners to create or retain approximately 19,000 jobs and is bringing the critical infrastructure to sustain new water and sewer services for more than 43,000 families;

Whereas an independent report from the Department of Agriculture's Economic Research Service found that per capita income

grew more rapidly in counties and parishes where the Delta Regional Authority had the greatest investment, showing that each additional dollar of Delta Regional Authority's per capita spending results in a $15 increase in personal income;

Whereas the Delta Regional Authority has developed a culture of transparency, passing 9 independent audits showing tangible results;

Whereas during its first 10 years, the Delta Regional Authority has laid a strong foundation for working with State Governors, Federal partners, community leaders, and private sector investors to capitalize on the region's strong points and serve as an economic multiplier for the 8–State region, helping communities tackle challenges and cultivating a climate conducive to job creation;

Whereas the Delta Regional Authority has expanded its regional initiatives in the areas of health care, transportation, leadership training, and information technology, and is also increasing efforts in the areas of small business development, entrepreneurship, and alternative energy jobs; and

Whereas the Delta Regional Authority stands prepared to use the groundwork established during its first decade as a springboard to create new opportunities for Delta communities in the future: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the 10th anniversary of the founding of the Delta Regional Authority; and

(2) honors and celebrates the Delta Regional Authority's first decade of work to improve the economy and well-being of the 8–State Delta region, and the promise of the Delta Regional Authority's continued work in the future.

RECOGNIZING THE UNITED STATES NATIONAL INTEREST IN HELPING TO PREVENT MASS ATROCITIES

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 722, S. Con. Res. 71.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 71) recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

There being no objection, the Senate proceeded to consider the concurrent resolution with an amendment and an amendment to the preamble, as follows:

[Strike the parts shown in boldface brackets and insert the parts printed in italic.]

S. CON. RES. 71

[Whereas, in the aftermath of the Holocaust, the international community vowed ''never again'' to allow systematic killings on the basis of nationality, ethnicity, race, or religion;

[Whereas a number of other genocides and mass atrocities have occurred, both prior to and since that time;

[Whereas the United States Government has undertaken many initiatives to ensure that victims of genocide and mass atrocities are not forgotten, and as a leader in the international community, the United States has committed to work with international partners to prevent genocide and mass atrocities and to help protect civilian populations at risk of such;

[Whereas the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, which declares genocide, whether committed in a time of peace or in a time of war, a crime under international law, and declares that the parties to the Convention will undertake to prevent and to punish that crime;

[Whereas the United States was the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide, and the Senate voted to ratify the Convention on the Prevention and Punishment of the Crime of Genocide on February 11, 1986;

[Whereas the Act entitled, ''An Act to establish the United States Holocaust Memorial Council'', approved October 7, 1980 (Public Law 96–388), established the United States Holocaust Memorial Council to commemorate the Holocaust, establish a memorial museum to the victims, and develop a committee to stimulate worldwide action to prevent or stop future genocides;

[Whereas the passage of the Genocide Convention Implementation Act of 1987 (Public Law 100–606), also known as the Proxmire Act, made genocide a crime under United States law;

[Whereas, in response to lessons learned from Rwanda and Bosnia, President William J. Clinton established a genocide and mass atrocities early warning system by establishing an Atrocities Prevention Interagency Working Group, chaired by an Ambassador-at-Large for War Crimes Issues from 1998 to 2000;

[Whereas, in 2005, the United States and all other members of the United Nations agreed that the international community has ''a responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapter VI and VIII of the United Nations Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity,'' and to take direct action if national authorities are unwilling or unable to protect their populations;

[Whereas the 2006 National Security Strategy of the United States stated, ''The world needs to start honoring a principle that many believe has lost its force in parts of the international community in recent years: genocide must not be tolerated. It is a moral imperative that states take action to prevent and punish genocide. . . . We must refine United States Government efforts—economic, diplomatic, and law-enforcement—so that they target those individuals responsible for genocide and not the innocent citizens they rule.'';

[Whereas the United States Holocaust Memorial Museum, the American Academy of Diplomacy, and the United States Institute of Peace convened a Genocide Prevention Task Force, co-chaired by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen, to explore how the United States Government could better respond to threats of genocide and mass atrocities;

[Whereas the final report of the Genocide Prevention Task Force, released in December 2008, concluded that the lack of an overarching policy framework or a standing interagency process, as well as insufficient and uncoordinated institutional capacities, undermines the ability of the United States Government to help prevent genocide or mass killings and offered recommendations for creating a government wide strategy;

[Whereas the former Director of National Intelligence, in his annual threat assessment to Congress in February 2010, highlighted countries at risk of genocide and mass atrocities and stated, ''Within the past 3 years, the Democratic Republic of Congo and Sudan all suffered mass killing episodes through violence starvation, or death in prison camps. . . . Looking ahead over the next 5 years, a number of countries in Africa and Asia are at significant risk for a new outbreak of mass killing.'';

[Whereas the Quadrennial Defense Review, released in February 2010, states that the Defense Department should be prepared to provide the President with options for ''preventing human suffering due to mass atrocities or large-scale natural disasters abroad'';

[Whereas the 2010 National Security Strategy notes, ''The United States is committed to working with our allies, and to strengthening our own internal capabilities, in order to ensure that the United States and the international community are proactively engaged in a strategic effort to prevent mass atrocities and genocide. In the event that prevention fails, the United States will work both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and—in certain instances—military means to prevent and respond to genocide and mass atrocities.'';

[Whereas genocide and mass atrocities often result from and contribute to instability and conflict, which can cross borders and exacerbate threats to international security and the national security of the United States;

[Whereas the failure to prevent genocide and mass atrocities can lead to significant costs resulting from regional instability, refugee flows, peacekeeping, economic loss, and the challenges of post-conflict reconstruction and reconciliation; and

[Whereas United States leadership and actions toward preventing and mitigating future genocides and mass atrocities can save human lives and help foster beneficial global partnerships: Now, therefore, be it**]**

Whereas, in the aftermath of the Holocaust, the international community vowed ''never again'' to allow systematic killings on the basis of nationality, ethnicity, race, or religion;

Whereas a number of other genocides and mass atrocities have occurred, both prior to and since that time;

Whereas the United States Government has undertaken many initiatives to ensure that victims of genocide and mass atrocities are not forgotten, and as a leader in the international community, the United States has committed to work with international partners to help to prevent genocide and mass atrocities and to help protect civilian populations at risk of such;

Whereas the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, which declares genocide, whether committed in a time of peace or in a time of war, a crime under international law, and declares that the parties to the Convention will undertake to prevent and to punish that crime;

Whereas the United States was the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide, and the Senate voted to ratify the Convention on the Prevention and Punishment of the Crime of Genocide on February 11, 1986;

Whereas the Act entitled, ''An Act to establish the United States Holocaust Memorial Council'', approved October 7, 1980 (Public Law 96–388),

established the United States Holocaust Memorial Council to commemorate the Holocaust, establish a memorial museum to the victims, and develop a committee to stimulate worldwide action to prevent or stop future genocides;

Whereas the passage of the Genocide Convention Implementation Act of 1987 (Public Law 100–606), also known as the Proxmire Act, made genocide a crime under United States law;

Whereas, in response to lessons learned from Rwanda and Bosnia, President William J. Clinton established a genocide and mass atrocities early warning system by establishing an Atrocities Prevention Interagency Working Group, chaired by an Ambassador-at-Large for War Crimes Issues from 1998 to 2000;

Whereas, in 2005, the United States and all other members of the United Nations agreed that the international community has ''a responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapter VI and VIII of the United Nations Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity'';

Whereas the United States and all other members of the United Nations further pledged that they were ''prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the [UN] Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity'';

Whereas the 2006 National Security Strategy of the United States stated, ''The world needs to start honoring a principle that many believe has lost its force in parts of the international community in recent years: genocide must not be tolerated. It is a moral imperative that states take action to prevent and punish genocide. . .. We must refine United States Government efforts—economic, diplomatic, and law-enforcement—so that they target those individuals responsible for genocide and not the innocent citizens they rule.'';

Whereas the United States Holocaust Memorial Museum, the American Academy of Diplomacy, and the United States Institute of Peace convened a Genocide Prevention Task Force, cochaired by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen, to explore how the United States Government could better respond to threats of genocide and mass atrocities;

Whereas the final report of the Genocide Prevention Task Force, released in December 2008, concluded that the lack of an overarching policy framework or a standing interagency process, as well as insufficient and uncoordinated institutional capacities, undermines the ability of the United States Government to help prevent genocide or mass killings and offered recommendations for creating a government wide strategy;

Whereas, in February 2010, the former Director of National Intelligence, in his annual threat assessment to Congress, highlighted countries at risk of genocide and mass atrocities and stated, ''Within the past 3 years, the Democratic Republic of Congo and Sudan all suffered mass killing episodes through violence starvation, or death in prison camps. . .. Looking ahead over the next 5 years, a number of countries in Africa and Asia are at significant risk for a new outbreak of mass killing.'';

Whereas the Quadrennial Defense Review, released in February 2010, states that the Defense Department should be prepared to provide the President with options for ''preventing human suffering due to mass atrocities or large-scale natural disasters abroad'';

Whereas the 2010 National Security Strategy notes, ''The United States is committed to working with our allies, and to strengthening our own internal capabilities, in order to ensure that the United States and the international community are proactively engaged in a strategic effort to prevent mass atrocities and genocide. In the event that prevention fails, the United States will work both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and—in certain instances—military means to prevent and respond to genocide and mass atrocities.'';

Whereas genocide and mass atrocities often result from and contribute to instability and conflict, which can cross borders and exacerbate threats to international security and the national security of the United States;

Whereas the failure to prevent genocide and mass atrocities can lead to significant costs resulting from regional instability, refugee flows, peacekeeping, economic loss, and the challenges of post-conflict reconstruction and reconciliation; and

Whereas United States leadership and actions toward preventing and mitigating future genocides and mass atrocities can save human lives and help foster beneficial global partnerships: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), [That the Senate—

[(1) recommits to honor the memory of the victims of the Holocaust as well as the victims of all past genocides and mass atrocities;

[(2) affirms that it is in the national interest and aligned with the values of the United States to work vigorously with international partners to prevent and mitigate future genocides and mass atrocities;

[(3) supports efforts made thus far by the President, the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of Defense, and the Director of National Intelligence to improve the capacity of the United States Government to anticipate, prevent, and address genocide and mass atrocities, including the establishment of an interagency policy committee and a National Security Council position dedicated to the prevention of genocide and other mass atrocities;

[(4) urges the President—

[(A) to direct relevant departments and agencies of the United States Government to review and evaluate existing capacities for anticipating, preventing, and responding to genocide and other mass atrocities, and to determine specific steps to coordinate and enhance those capacities; and

[(B) to develop and communicate a whole of government approach and policy to anticipate, prevent, and mitigate acts of genocide and other mass atrocities;

[(5) urges the Secretary of State, working closely with the Administrator of the United States Agency for International Development—

[(A) to ensure that all relevant officers of the Foreign Service and particularly those deploying to areas undergoing significant conflict or considered to be at risk of significant conflict, genocide, and other mass atrocities receive appropriate advanced training in early warning and conflict prevention, mitigation, and resolution;

[(B) to determine appropriate leadership, structure, programs, and mechanisms within the Department of State and the United States Agency for International Development that can enhance efforts to prevent genocide and other mass atrocities; and

[(C) to include relevant recommendations for enhancing civilian capacities to help prevent and mitigate genocide and mass atrocities in the upcoming Quadrennial Diplomacy and Development Review;

[(6) urges the Secretary of the Treasury, working in consultation with the Secretary of State, to review how sanctions and other financial tools could be used against state and commercial actors found to be directly supporting or enabling genocides and mass atrocities;

[(7) recognizes the importance of flexible contingency crisis funding to enable United States civilian agencies to respond quickly to help prevent and mitigate crises that could lead to significant armed conflict, genocide, and other mass atrocities;

[(8) urges the Secretary of Defense to conduct an analysis of the doctrine, organization, training, material, leadership, personnel, and facilities required to prevent and respond to genocide and mass atrocities;

[(9) encourages the Secretary of State and Secretary of Defense to work with the relevant congressional committees to ensure that a priority goal of all United States security assistance and training is to support legitimate, accountable security forces committed to upholding the sovereign responsibility to protect civilian populations from violence, especially genocide and other mass atrocities;

[(10) supports efforts by the United States Government to provide logistical, communications, and intelligence support, as appropriate, to assist multilateral diplomatic efforts and peace operations in preventing mass atrocities and protecting civilians;

[(11) calls on other members of the international community to increase their support for multilateral diplomatic efforts and peace operations to more effectively prevent mass atrocities and protect civilians;

[(12) encourages the Secretary of State to work closely with regional and international organizations, the United Nations Special Adviser for the Prevention of Genocide, and civil society experts to develop and expand multilateral mechanisms for early warning, information sharing, and rapid response diplomacy for the prevention of genocide and other mass atrocities; and

[(13) commits to calling attention to areas at risk of genocide and other mass atrocities and ensuring that the United States Government has the tools and resources to enable its efforts to prevent genocide and mass atrocities.]

That the Senate—

(1) recommits to honor the memory of the victims of the Holocaust as well as the victims of all past genocides and mass atrocities;

(2) affirms that it is in the national interest and aligned with the values of the United States to work vigorously with international partners to prevent and mitigate future genocides and mass atrocities;

(3) supports the establishment of an interagency policy committee and a National Security Council position dedicated to the prevention of genocide and other mass atrocities;

(4) urges the President—

(A) to direct relevant departments and agencies of the United States Government to review and evaluate existing capacities for anticipating, preventing, and responding to genocide and other mass atrocities, and to determine specific steps to coordinate and enhance those capacities; and

(B) to develop and communicate a whole of government approach and policy to anticipate, prevent, and mitigate acts of genocide and other mass atrocities;

(5) urges the Secretary of State, working closely with the Administrator of the United States Agency for International Development—

(A) to ensure that all relevant officers of the Foreign Service and particularly those deploying to areas undergoing significant conflict or considered to be at risk of significant conflict, genocide, and other mass atrocities receive appropriate advanced training in early warning and conflict prevention, mitigation, and resolution;

(B) to determine appropriate leadership, structure, programs, and mechanisms within the Department of State and the United States Agency for International Development that can enhance efforts to help to prevent genocide and other mass atrocities; and

(C) to ensure recommendations for enhancing civilian capacities to help prevent and mitigate genocide and mass atrocities in the upcoming Quadrennial Diplomacy and Development Review;

(6) urges the Secretary of the Treasury, working in consultation with the Secretary of State, to review how sanctions and other financial tools could be used against individuals and entities found to be directly supporting or enabling genocides and mass atrocities;

(7) recognizes the importance of flexible contingency crisis funding to enable United States civilian agencies to respond quickly to help prevent and mitigate crises that could lead to significant armed conflict, genocide, and other mass atrocities;

(8) urges the Secretary of Defense to conduct an analysis of the doctrine, organization, training, material, leadership, personnel, and facilities required to help prevent and respond to genocide and mass atrocities;

(9) encourages the Secretary of State and Secretary of Defense to work with the relevant congressional committees to promote the effective use of United States security assistance and training is to support legitimate, accountable security forces committed to upholding the sovereign responsibility to protect civilian populations from violence, especially genocide and other mass atrocities;

(10) supports efforts by the United States Government to provide logistical, communications, and intelligence support, as appropriate, to assist multilateral diplomatic efforts and peace operations in preventing mass atrocities and protecting civilians;

(11) calls on other members of the international community to increase their support for multilateral diplomatic efforts and peace operations to more effectively prevent mass atrocities and protect civilians;

(12) encourages the Secretary of State to work closely with regional and international organizations, the United Nations Special Adviser for the Prevention of Genocide, and civil society experts to develop and expand multilateral mechanisms for early warning, information sharing, and rapid response diplomacy for the prevention of genocide and other mass atrocities; and

(13) commits to calling attention to areas at risk of genocide and other mass atrocities and ensuring that the United States Government has the tools and resources to enable its efforts to help prevent genocide and mass atrocities.

Mr. BAYH. Mr. President, I ask unanimous consent that the committee-reported substitute to the concurrent resolution be agreed, the concurrent resolution, as amended, be agreed to, the committee-reported amendment to the preamble be agreed to, the preamble, as amended, be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the measure be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The concurrent resolution (S. Con. Res. 71), as amended, was agreed to.

The committee amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, with its preamble, as amended, reads as follows:

S. CON. RES. 71

Whereas in the aftermath of the Holocaust, the international community vowed ''never again'' to allow systematic killings on the basis of nationality, ethnicity, race, or religion;

Whereas a number of other genocides and mass atrocities have occurred, both prior to and since that time;

Whereas the United States Government has undertaken many initiatives to ensure that victims of genocide and mass atrocities are not forgotten, and as a leader in the international community, the United States has committed to work with international partners to help to prevent genocide and mass atrocities and to help protect civilian populations at risk of such;

Whereas the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, which declares genocide, whether committed in a time of peace or in a time of war, a crime under international law, and declares that the parties to the Convention will undertake to prevent and to punish that crime;

Whereas the United States was the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide, and the Senate voted to ratify the Convention on the Prevention and Punishment of the Crime of Genocide on February 11, 1986;

Whereas the Act entitled, ''An Act to establish the United States Holocaust Memorial Council'', approved October 7, 1980 (Public Law 96–388), established the United States Holocaust Memorial Council to commemorate the Holocaust, establish a memorial museum to the victims, and develop a committee to stimulate worldwide action to prevent or stop future genocides;

Whereas the passage of the Genocide Convention Implementation Act of 1987 (Public Law 100–606), also known as the Proxmire Act, made genocide a crime under United States law;

Whereas in response to lessons learned from Rwanda and Bosnia, President William J. Clinton established a genocide and mass atrocities early warning system by establishing an Atrocities Prevention Interagency Working Group, chaired by an Ambassador-at-Large for War Crimes Issues from 1998 to 2000;

Whereas, in 2005, the United States and all other members of the United Nations agreed that the international community has ''a responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapter VI and VIII of the United Nations Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity'';

Whereas the United States and all other members of the United Nations further pledged that they were ''prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the [UN] Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity'';

Whereas the 2006 National Security Strategy of the United States stated, ''The world needs to start honoring a principle that many believe has lost its force in parts of the international community in recent years: genocide must not be tolerated. It is a moral imperative that states take action to prevent and punish genocide. . . . We must refine United States Government efforts—economic, diplomatic, and law-enforcement—so that they target those individuals responsible for genocide and not the innocent citizens they rule.'';

Whereas the United States Holocaust Memorial Museum, the American Academy of Diplomacy, and the United States Institute of Peace convened a Genocide Prevention Task Force, co-chaired by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen, to explore how the United States Government could better respond to threats of genocide and mass atrocities;

Whereas the final report of the Genocide Prevention Task Force, released in December 2008, concluded that the lack of an overarching policy framework or a standing interagency process, as well as insufficient and uncoordinated institutional capacities, undermines the ability of the United States Government to help prevent genocide or mass killings and offered recommendations for creating a government wide strategy;

Whereas, in February 2010, the former Director of National Intelligence, in his annual threat assessment to Congress, highlighted countries at risk of genocide and mass atrocities and stated, ''Within the past 3 years, the Democratic Republic of Congo and Sudan all suffered mass killing episodes through violence starvation, or death in prison camps. . . . Looking ahead over the next 5 years, a number of countries in Africa and Asia are at significant risk for a new outbreak of mass killing.'';

Whereas the Quadrennial Defense Review, released in February 2010, states that the Defense Department should be prepared to provide the President with options for ''preventing human suffering due to mass atrocities or large-scale natural disasters abroad'';

Whereas the 2010 National Security Strategy notes, ''The United States is committed to working with our allies, and to strengthening our own internal capabilities, in order to ensure that the United States and the international community are proactively engaged in a strategic effort to prevent mass atrocities and genocide. In the event that prevention fails, the United States will work both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and—in certain instances—military means to prevent and respond to genocide and mass atrocities.'';

Whereas genocide and mass atrocities often result from and contribute to instability and conflict, which can cross borders and exacerbate threats to international security and the national security of the United States;

Whereas the failure to prevent genocide and mass atrocities can lead to significant costs resulting from regional instability, refugee flows, peacekeeping, economic loss, and the challenges of post-conflict reconstruction and reconciliation; and

Whereas United States leadership and actions toward preventing and mitigating future genocides and mass atrocities can save human lives and help foster beneficial global partnerships: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) recommits to honor the memory of the victims of the Holocaust as well as the victims of all past genocides and mass atrocities;

(2) affirms that it is in the national interest and aligned with the values of the United States to work vigorously with international partners to prevent and mitigate future genocides and mass atrocities;

(3) supports the establishment of an interagency policy committee and a National Security Council position dedicated to the prevention of genocide and other mass atrocities;

(4) urges the President—

(A) to direct relevant departments and agencies of the United States Government to review and evaluate existing capacities for anticipating, preventing, and responding to genocide and other mass atrocities, and to determine specific steps to coordinate and enhance those capacities; and

(B) to develop and communicate a whole of government approach and policy to anticipate, prevent, and mitigate acts of genocide and other mass atrocities;

(5) urges the Secretary of State, working closely with the Administrator of the United States Agency for International Development—

(A) to ensure that all relevant officers of the Foreign Service and particularly those deploying to areas undergoing significant conflict or considered to be at risk of significant conflict, genocide, and other mass atrocities receive appropriate advanced training in early warning and conflict prevention, mitigation, and resolution;

(B) to determine appropriate leadership, structure, programs, and mechanisms within the Department of State and the United States Agency for International Development that can enhance efforts to help to prevent genocide and other mass atrocities; and

(C) to ensure recommendations for enhancing civilian capacities to help prevent and mitigate genocide and mass atrocities in the upcoming Quadrennial Diplomacy and Development Review;

(6) urges the Secretary of the Treasury, working in consultation with the Secretary of State, to review how sanctions and other financial tools could be used against individuals and entities found to be directly supporting or enabling genocides and mass atrocities;

(7) recognizes the importance of flexible contingency crisis funding to enable United States civilian agencies to respond quickly to help prevent and mitigate crises that could lead to significant armed conflict, genocide, and other mass atrocities;

(8) urges the Secretary of Defense to conduct an analysis of the doctrine, organization, training, material, leadership, personnel, and facilities required to help prevent and respond to genocide and mass atrocities;

(9) encourages the Secretary of State and Secretary of Defense to work with the relevant congressional committees to promote the effective use of United States security assistance and training is to support legitimate, accountable security forces committed to upholding the sovereign responsibility to protect civilian populations from violence, especially genocide and other mass atrocities;

(10) supports efforts by the United States Government to provide logistical, communications, and intelligence support, as appropriate, to assist multilateral diplomatic efforts and peace operations in preventing mass atrocities and protecting civilians;

(11) calls on other members of the international community to increase their support for multilateral diplomatic efforts and peace operations to more effectively prevent mass atrocities and protect civilians;

(12) encourages the Secretary of State to work closely with regional and international organizations, the United Nations Special Adviser for the Prevention of Genocide, and civil society experts to develop and expand multilateral mechanisms for early warning, information sharing, and rapid response diplomacy for the prevention of genocide and other mass atrocities; and

(13) commits to calling attention to areas at risk of genocide and other mass atrocities and ensuring that the United States Government has the tools and resources to enable its efforts to help prevent genocide and mass atrocities.

SUPPORTING THE GOALS AND IDEALS OF THE YEAR OF THE LUNG 2010

Mr. BAYH. Madam President, I ask unanimous consent that the Health, Education, Labor, and Pensions Committee be discharged from further consideration of S. Res. 432, and the Senate proceed to its consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 432) supporting the goals and ideals of the Year of the Lung 2010.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAYH. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 432) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 432

Whereas millions of people around the world struggle each year for life and breath due to lung diseases, including tuberculosis, asthma, pneumonia, influenza, lung cancer and chronic obstructive pulmonary disease (COPD), pulmonary fibrosis, and more than 8,100,000 die each year;

Whereas lung diseases afflict people in every country and every socioeconomic group, but take the heaviest toll on the poor, children, the elderly, and the weak;

Whereas lung disease is a serious public health problem in the United States that affects adults and children of every age and race;

Whereas lower respiratory diseases are the fourth leading cause of death in the United States;

Whereas the economic cost of lung diseases is expected to be $177,000,000,000 in 2009, including $114,000,000,000 in direct health expenditures and $64,000,000,000 in indirect morbidity and mortality costs;

Whereas nearly half of the world's population lives in or near areas with poor air quality, which significantly increases the incidence of lung diseases such as asthma and COPD, and more than 2,000,000 people die prematurely due to indoor and outdoor air pollution;

Whereas tuberculosis, an airborne infection that attacks the lungs and other major organs, is a leading global infectious disease;

Whereas no new drugs have been developed for tuberculosis in more than 5 decades and the only vaccine is nearly a century old, yet there were 9,400,000 new cases in 2008, and this curable disease kills 1,800,000 each year;

Whereas an estimated 12,000,000 adults in the United States, are diagnosed with COPD, and another 12,000,000 have the disease but don't know it;

Whereas COPD kills an estimated 126,000 people in the United States each year, is currently the fourth leading cause of death in the Nation, is the only one of the 4 major causes that is still increasing in prevalence, and is expected to rise to become the third leading cause of death in the United States;

Whereas lung cancer is the second most common cancer in the United States and the most common cause of cancer deaths;

Whereas the leading cause of lung cancer is long-term exposure to tobacco smoke;

Whereas about 23,400,000 people in the United States have asthma, a prevalence which has risen by over 150 percent since 1980;

Whereas asthma is the most common chronic disorder found in children, with 7,000,000 affected;

Whereas flu and pneumonia together are the eighth leading cause of death in the United States;

Whereas about 190,000 people in the United States are affected by acute respiratory distress syndrome (ARDS) each year, a critical illness that results in sudden respiratory system failure, which is fatal in up to 30 percent of cases;

Whereas about 75,000 people in the United States die as a result of acute lung injury, a disease that can be triggered by infection, drowning, traumatic accident, burn injuries, blood transfusions, and inhalation of toxic substances, which kills approximately the same number of people each year as die from breast cancer, colon cancer, and prostate cancer combined;

Whereas of the 10 leading causes of infant mortality in the United States, 4 are lung diseases or have a lung disease component;

Whereas pulmonary fibrosis (PF) is a relentlessly progressive, ultimately fatal disease with a median survival rate of 2.8 years that has no life-saving therapy or cure;

Whereas more than 120,000 people are living with PF in the United States, 48,000 are diagnosed with it each year, and as many as 40,000 die annually, the same as die from breast cancer;

Whereas the cause of sarcoidosis, an inflammatory disease that occurs most often in the lungs and has its highest incidence among young people aged 20 to 29, is unknown;

Whereas 15 years ago, people with pulmonary hypertension lived on average less than 3 years after diagnosis;

Whereas new treatments have improved survival rates and quality of life for those living with this condition, but it remains a severe and often fatal illness;

Whereas Lymphangioleiomyomatosis (LAM), a rare lung disease that affects women exclusively and is also associated with tuberous sclerosis, has no treatment protocol or cure and is often misdiagnosed as asthma or emphysema;

Whereas Hermansky-Pudlak Syndrome, a genetic metabolic disorder which causes albinism, visual impairment, and serious bleeding due to platelet dysfunction, has no cure and no standard of treatment;

Whereas children's interstitial lung disease, a group of rare lung diseases, has many different forms, including surfactant protein deficiency, chronic bronchiolitis, and connective tissue lung disease, and is thus difficult to diagnose and treat;

Whereas the Centers for Disease Control and Prevention estimates that 50,000,000 to 70,000,000 adults in the United States suffer from disorders of sleep and wakefulness;

Whereas insufficient sleep is associated with a number of chronic diseases and conditions, including diabetes, cardiovascular disease, obesity, and depression;

Whereas the average cost of treating severe COPD is 5 times higher than treating mild COPD;

Whereas the appropriate medication and disease management of asthma can reduce health care costs, including hospitalization, emergency room visits, and physician visits, by half;

Whereas the flu vaccine can prevent 60 percent of hospitalizations and 80 percent of deaths from flu-related complications among the elderly;

Whereas advances in medical research have significantly improved the capacity to fight lung disease by providing greater knowledge about its causes, innovative diagnostic tools to detect the disease, and new and improved treatments that help people survive and recover from this disease;

Whereas there is no cure for major lung diseases including asthma, COPD, and lung cancer;

Whereas chronic lung diseases are a leading cause of death and yet the quality of palliative and end-of-life care for patients with chronic lung disease is significantly worse than patients with other terminal illnesses;

Whereas the National Institutes of Health, through its many institutes and centers, through basic, clinical, and translational research, plays a pivotal role in advancing the prevention, detection, treatment, and cure of lung disease;

Whereas the Department of Veterans Affairs is actively engaged in research in respiratory diseases that impact the Nation's veterans;

Whereas the Environmental Protection Agency establishes air quality standard and enforcement programs to ensure the quality of the air we breathe;

Whereas the Centers for Medicare and Medicaid Services, provides essential health insurance benefits for millions of patients with respiratory disorders;

Whereas the Centers for Disease Control and Prevention, through its many centers and programs, provides valuable prevention and surveillance programs on diseases of the lung;

Whereas an international collaboration of medical professional and scientific societies is working to enhance the general public's understanding of respiratory diseases, their causes, prevention, treatment, and impact respiratory disease play in human health; and

Whereas the initiative, The Year of the Lung, seeks to raise awareness about lung health among the public, initiate action in communities worldwide, and advocate for resources to combat lung disease including resources for research and research training programs worldwide: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of the Year of the Lung.

TECHNICAL CORRECTION TO S. RES. 700

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 705, submitted earlier today.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 705) providing for a technical correction to S. Res. 700.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAYH. Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the measure be printed in the RECORD.

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

The resolution (S. Res. 705) was agreed to, as follows:

S. RES. 705

Resolved,

SECTION 1. TECHNICAL CORRECTION.

Senate Resolution 700, 111th Congress, agreed to December 10, 2010, is amended in section 3(b)—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

SENATE NATIONAL SECURITY WORKING GROUP

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 706, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 706) extending the authority for the Senate National Security Working Group.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAYH. Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 706) was agreed to, as follows:

S. RES. 706

Resolved, That Senate Resolution 105 of the One Hundred First Congress, 1st session (agreed to on April 13, 1989), as amended by Senate Resolution 149 of the One Hundred Third Congress, 1st session (agreed to on October 5, 1993), as further amended by Senate Resolution 75 of the One Hundred Sixth Congress, 1st session (agreed to on March 25, 1999), as further amended by Senate Resolution 383 of the One Hundred Sixth Congress, 2d session (agreed to on October 27, 2000), as further amended by Senate Resolution 355 of the One Hundred Seventh Congress, 2d session (agreed to on November 13, 2002), as further amended by Senate Resolution 480 of the One Hundred Eighth Congress, 2d session (agreed to November 20, 2004), as further amended by Senate Resolution 625 of the One Hundred Ninth Congress, 2d Session (agreed to on December 6, 2006), and as further amended by Senate Resolution 715 of the One Hundred Tenth Congress, 2d session (agreed to November 20, 2008), is further amended in section 4 by striking ''2010'' and inserting ''2012''.

HONORING LULA DAVIS

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 707, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 707) honoring Lula Davis.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, every working body needs a strong heart to function. This legislative body, the Senate, is no different. For many years—as long as I have been in the Senate, and that is a while—Lula Davis has been the heart of the Senate.

In 1997, when we elected her as assistant Democratic secretary, she was the first woman to hold that position. Before the 111th Congress, we elected her to be the secretary of the majority—the first African American in that role. Over the last 2 years, she has expertly tackled one of the toughest jobs anywhere in politics.

More importantly, the last 2 years have also seen the debate and passage of some of the most historic legislation in the entire history of the country—laws to protect Americans from health insurance companies, from Wall Street banks, from credit card companies, from tobacco companies, from mortgage fraudsters, from unsafe food, from discrimination, from inequality, and so, so much more.

Any one of these bills by itself would define a session of Congress. We did all of them in just the last 2 years, and we could not have done any of it without Lula Davis's leadership.

Lula has come a long way since her days as a teacher and guidance counselor, and even further from her time in rural Louisiana. She started her Senate career as a legislative aide to her home State Senator, the legendary Russell Long, and went on to serve in almost every position on the floor staff: office assistant, floor assistant, chief floor assistant, assistant secretary, and secretary.

Anyone who has watched the Senate knows it is not always an easy place to understand, and I am an expert on how hard it is to understand it. Anyone who has studied this institution, its idiosyncrasies and intricacies knows it can be extremely baffling. But Lula knows this place inside and out like no one else. She is fluent in the rhythms of the Senate. She knows and respects its complex rules, both formal and informal. Her counsel, as a result, has always been thoughtful and reliable to every one of us.

She is loyal to the Senate and to its Senators, and she respects the traditions that make this body great—which is why, in return, this body has great respect for her and her hard work.

Lula has spent her Senate career behind the scenes not just helping Senators do our jobs but also quietly helping young people, the hungry, and those in need. As tough and hard as Lula must be here on the Senate floor, she has a heart of gold.

She founded and runs a nonprofit called Leadership Cares, which each year helps children in our community provide quality meals to more than 650 families. She has encouraged many of her fellow Senate staffers to join her family and friends and volunteer to help. She has never asked for any recognition for this work or any of her work because that is the kind of person she is. But Lula deserves our praise and thanks for so much more.

Senator LANDRIEU of Louisiana likes to tell a story about how much a part of the Senate Lula really is, how great an institution our outgoing secretary of the majority is. Senator LANDRIEU once asked a group of Senate pages if they had had a chance to meet the Senate leaders. They said: Yes. They had met Lula.

Lula Davis has been the heart of the Senate, and our appreciation for her is heartfelt. I speak for each Senator, Democrats and Republicans.

For me, personally, Lula has been strong, resolute, and very wise. Words cannot describe how I will miss Lula Davis. She has been indispensable and she is irreplaceable.

On behalf of every Senator, I thank Lula for her years of service to our caucus and for her more than 25 years of service to the Senate and the United States of America.

Mr. MCCONNELL. Madam President, I rise this evening to acknowledge the retirement of Lula Davis, in appreciation of her dedication to the Senate and her many years of service to this institution. Lula has been a force in every legislative effort we have engaged in since my tenure as Republican leader began, and long before that. I have come to respect her deep knowledge of the Senate rules and the important role she has played in advising Democratic Senators over the past 2 years. She is a constant presence on the floor and an important part of Senate life. We congratulate her on her professional success, from her days as a school teacher to her work on the floor of the U.S. Senate, and we wish her every happiness in the years ahead.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, before I make a statement on another issue, I join the majority leader in his comments about the retirement of Lula Johnson Davis from the Senate.

Before I came to the Senate, I was a Member of the House of Representatives for 14 years, and I greatly enjoyed that experience. It was certainly an amazing change to come from the House to the Senate, to move from one congressional district to representing the entire State, to move from a 2-year term to a 6-year term, to move from 434 colleagues to 99 fellow colleagues. All of these things took some getting used to, plus the fact that, in the House, you were constricted on the use of time for speeches on the floor, and in the Senate, there is almost no limit. If you want to speak forever, I think the Senate rules will accommodate you.

Those changes all pale in comparison to the single biggest change I ran into here, and that was facing the secretary to the majority, Lula Johnson Davis. I knew that people throughout Capitol Hill on both the House and Senate sides at the staff level were extremely courteous, kind, and helpful. I found that throughout my career in the House, and I certainly found it in the Senate. But the good thing about Lula Davis was that she was respectful of Senators, but not deferential. She would be happy to tell you when she thought you had stepped out of line in what you were wearing, and what you were chewing, and what you might be using your microphone for, your conversations on the floor, and on and on. She did this in a way that first startled me, because I wasn't used to it in the House. There was nobody like Lula in the House of Representatives to keep you in line. She did it, and I came to not only like it but respect it so much, because I knew she was doing it not in any personal way but because of her love for the Senate.

They do a Roll Call survey about the most powerful staffers on Capitol Hill, and they rate them in four ways: know-how, muscle, spin control, and access. Lula always received the highest check marks in every category but one—spin control. That is about right. Lula Davis was never one to mince words in her role as secretary to the majority of the Senate. Tough, fair, insisting on the strict observance of Senate rules and protocols, she reflected love for this institution in all that she did for us.

The National Journal described her as ''an internally legendary staffer.'' That is true. In the 221-year history of the Senate, Lula Davis is only the second woman—and the first African American—ever to hold the position of secretary to the majority.

Her loyalty and devotion to this Senate are unmatched. She was the first one here in the morning and the last one to leave at night.

I know I speak for all Senators from the Democratic side and the Republican side, as well, in saying she is going to be missed. Unlike many, Lula Davis did not move to Washington to get involved in politics. She started her career as a high school teacher and guidance counselor. A friend told Lula about an opening in the office of her home State Senator, Russell Long, of Louisiana. She started her Hill career at the bottom, as a legislative correspondent, answering mail.

When Senator Long retired in 1989, Lula moved to the Democratic floor staff and worked her way up from the lowliest assistant position to become secretary to the majority.

As many hours as Lula devoted to the Senate, it is hard to believe that she had time for anything else. But she founded an organization called LeadershipCares, which tries to guide young people into successful lives by helping others who are less fortunate. Almost every class of pages on the Democratic side would tell a story about Lula, because she became not only their boss but their friend. She taught them a lot about life in their life experience here in the Senate.

I join my colleagues in wishing Lula the very best of luck as she begins the next chapter in life.

Mr. HARKIN. Madam President, although I don't have anything written, I was listening to the leader speak and the whip talk about Lula Davis and all she has done here in the Senate. I, too, wish to pay my respects and give my thanks and my best wishes to Lula Davis as she leaves the Senate.

For 30 years, she has been a loyal, hard-working, passionate advocate for the people of this country in an unelected role—a role that required her to make sure the business of the Senate was conducted. I know of no one who knows the rules and how things work and how things should go better than Lula Davis. At times, she knew everything, it seemed to me. Many times, we would go to her because we would have a bill on the floor and we would have something that would get tied up. I would be managing a bill, and things would get into a big ball of wax sometimes or seem like a big ball of string and you had to figure out how to unwind it. I would always go to Lula Davis and say: OK, how do we get out of this mess? We have an amendment on an amendment and a motion to recommit and all these things piled up. And she always knew how to do it. She always knew how to make sure the place would run.

If you ever needed advice on how to do something or accomplish something, you could go to her. Of course, sometimes she would give you advice you didn't want to hear. Sometimes you wanted to do something, and she had to be the person to say: Well, the rules just won't allow you to do that. So there were times I would get frustrated, and I would say: But I want to do this; this is for the good of the country. And Lula Davis would say: Well, Senator, you are just going to have to find some other way to do it.

So that is just my way to pay respect to a person who devoted so much of her life to this Senate. A lot of times, we find ourselves here late at night, and once in a while, I would think I was the last person to leave, but Lula was always the last person to leave and always the person—if you came in early in the day, she was the first person here. So she has really been such an integral part of the Senate, the Senate floor is going to have a vacancy without her in the future.

So to Lula Davis, I say: Thank you for so many years of friendship and

loyalty and hard work in helping to make the Senate a more efficient, compatible working environment.

I thank Lula Davis, and I wish her the best in her retirement. I hope she doesn't get too far away from the Senate and that she comes back to see us once in a while to help us untangle that ball of string, as I am sure it is bound to become tangled again sometime.

Mr. BAYH. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 707) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 707

Whereas Lula Davis, the Secretary for the Majority, will be retiring at the end of the 111th Congress, after a long and distinguished career;

Whereas Lula Davis was first elected as Assistant Democratic Secretary in 1997, and she was the first woman ever to hold that position;

Whereas Lula Davis was elected to be the Secretary for the Majority at the beginning of the 111th Congress, the first African American to serve in this position, and during the 111th Congress she has expertly tackled one of the toughest jobs in politics;

Whereas throughout her time in the Senate, Lula Davis has played a major role in managing the debate and passage of many significant pieces of legislation;

Whereas many legislative accomplishments over the years would not have happened without the leadership of Lula Davis;

Whereas Lula Davis lived in rural Louisiana, and worked as a teacher and guidance counselor;

Whereas Lula Davis remains committed to children in our community, founding and continuing to run a nonprofit mentoring and charitable organization called ''Leadership Cares,'' which provides holiday meals to more than 650 families annually;

Whereas Lula Davis has encouraged many of her fellow Senate staff to volunteer alongside her family and friends to make a difference for those in need;

Whereas Lula Davis started her Senate career as a legislative aide to her home-state Senator, Russell Long, and went on to serve in almost every position on the floor staff, including office assistant, floor assistant, chief floor assistant, Assistant Secretary, and Secretary;

Whereas Lula Davis is a master of the complex formal and informal rules under which the Senate operates;

Whereas Lula Davis has consistently provided thoughtful and reliable advice to both Democratic and Republican leadership and all members of the Senate;

Whereas Lula Davis is loyal to the Senate and to Senators, and respects the traditions that make this body great;

Whereas the Senate has tremendous respect for Lula Davis and her hard work, and deeply appreciates her enormous contributions to the Senate and to the United States: Now, therefore, be it

Resolved, That the Senate expresses its deepest thanks to Lula Davis for her many years of outstanding service to the United States Senate and to the United States of America.

STAR PRINT—S. 583

Mr. BAYH. Madam President, I ask unanimous consent that Calendar No. 706, S. 583, reported from the Committee on Commerce, Science, and Transportation on December 17, 2010, be star printed with the changes at the desk. An incorrect version of the committee substitute amendment was reported to the Senate.

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

SIGNING AUTHORITY

Mr. BAYH. Madam President, I ask unanimous consent that Senator BAYH be authorized to sign any duly enrolled bills or joint resolutions on Wednesday, December 22, and that Senator LINCOLN be authorized to sign any duly enrolled bills or joint resolutions on Thursday, December 23, and Friday, December 24.

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

APPOINTMENTS AUTHORITY

Mr. BAYH. Madam President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, in consultation with the chairman of the Senate Committee on Indian Affairs and the chairman of the Senate Committee on the Judiciary, pursuant to Public Law 111–211, appoints the following individual to be a member of the Indian Law and Order Commission: Affie Ellis of Wyoming.

The Chair, on behalf of the majority leader, after consultation with the chairman of the Select Committee on Intelligence of the Senate, and pursuant to the provisions of Public Law 107–306, as amended by Public Law 111–259, announces the appointment of the following individual to serve as a member of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community: the Honorable MARK R. WARNER of Virginia.

The Chair, on behalf of the majority leader, in consultation with the chairman of the Senate Committee on Indian Affairs and the chairman of the Senate Committee on the Judiciary, pursuant to Public Law 111–211, appoints the following individuals to be members of the Indian Law and Order Commission: Troy Eid of Colorado and Jefferson Keel of Oklahoma.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ACCOMPLISHMENTS OF THE 111TH CONGRESS

Mr. REID. Madam President, when we convened this Congress in January 2009, 750,000 Americans were losing their jobs every month. Soon after this Congress began, an auto industry nearly imploded, and within a year an oil well exploded. It was a tough 2 years for our Nation and for so many families. It was also a time of remarkable progress.

When this Congress began, insurance companies were free to deny health care to the sick for any excuse they could come up with. The doughnut hole that sent seniors' prescription drug costs through the roof was wide open. Wall Street firms had just crashed our economy, but they were still free to rip off investors while the Nation smoldered.

Cigarette companies could prey on children, credit card companies could prey on consumers, and con artists could prey on families' mortgages.

Employers were free to pay women less than men, the safety of our food supply was dangerously inadequate, and the definition of a hate crime was shamefully insufficient. Gay men and women who volunteered to defend and die for our country were asked to fight and die for values and principles they didn't have for themselves in America.

More than a year has passed since American inspectors were on the ground to monitor the Russian nuclear weapons arsenal.

We have turned each of these around. Because of what we did in this Congress, we brought the economy back from the brink of collapse, we cut taxes for 95 percent of Americans, we invested in important job-creating projects, and we will keep working until everyone who wants to work can find a job.

Because of what we did, families are safer from health insurance companies. Our economy and its investors are safer from big banks. Consumers are safer from credit card companies, homeowners are safer from mortgage fraud, and all of us are safer from corporate fraud.

Parents can know their children are safer from cigarette companies, thanks to legislation we passed that will save

lives. Our food safety protections will save countless more lives.

We also made historic strides for equality and justice. With a hate crimes bill that bears Emmitt Till's name, we stood up for those who are victims of violence because of their race, ethnicity, or sexual orientation. With a fair pay bill in Lilly Ledbetter's name, we stood up for those who are targets of discrimination in the workplace because of their gender or background. And we made right a wrong done long ago to African Americans and American Indian farmers.

Because we repealed don't ask, don't tell, our military is stronger and we can still fulfill our Nation's promise. And because we ratified the START treaty today, America and the world are safer from nuclear devastation.

These are just the ones that got the biggest headlines. The 111th Congress did much more.

We cut taxes for the middle class and small business multiple times. We made it easier for families to buy their first home. We made it easier for students to afford to go to college, and strengthened our commitment to research, math and science education, technological innovation, and maintaining this country's competitive edge. We made sure children can afford to get the health care they need no matter how much money their parents make, and made sure even more schoolchildren who would otherwise go hungry can get healthier meals.

We extended unemployment insurance for millions still struggling to find a job and extended COBRA subsidies so those still struggling to find work can feed their families, fuel our economy and afford decent medical care. We strengthened Medicaid and made sure doctors can still afford to treat seniors on Medicare. We helped hundreds of thousands afford more fuel-efficient cars and trucks.

With a national service bill named for Senator Ted Kennedy, we made it easier for more Americans to serve their country, like our heroes of generations past. With one of the most important conservation bills in decades, we protected our public lands for generations to come. We cut waste and fraud in the way the Pentagon purchases military weapons. We made sure our troops have the equipment they need on the battlefield and that our veterans have the care they need when they come home. We gave everyone in the military a well-deserved pay raise.

We secured our borders with guards, fencing, and predator drones. We imposed sanctions on Iran to deter this regime from acquiring a nuclear weapon. We thawed our credit markets so Americans can get the loans they need to buy a car, send a child to college, or even start a new business. We supported the travel and tourism industries, which will create tens of thousands of jobs and cut our deficit by hundreds of millions of dollars.

We confirmed many well-qualified nominees for positions in public service and on the bench, including the third and fourth women—and the first ever Latina—to serve on our Supreme Court.

We began this Congress with the challenge of keeping our economy from a second Great Depression. We are not all the way out of the ditch yet. We have come a long way since President Bush's Treasury Secretary sat down with us and warned us of the dire stakes of inaction.

In 2011, we have to do even more to put middle-class families first, to create jobs and cut taxes. We will continue to move America toward energy independence. We will continue to fight to fix our broken immigration system. And we will continue fighting for fairness—including giving our first responders the same workplace rights everyone else has.

This was, by far, the most productive Congress in American history. And the lameduck session we are finishing was the most productive of its kind. Why? Because we heard the message the American people sent us last month. They do not want us to sit around and waste our time. They want us to work together and work for them. They want us to get things done.

We have been productive beyond any historical measure. But we cannot forget the context: We have had to do more with less—passing some of the most major pieces of legislation in history with the least bipartisan cooperation in history. I am sorry the minority party decided to sit on the sidelines. I know the history books will remember who was on the field.

I thank every Senator and every staffer who has worked so hard. They have worked so tirelessly over these past 2 years. The distance we took America from January 2009 to December 2010 is one of the most remarkable times in the history of the world and our country.

I am very proud of the work this Congress did, and I sincerely hope that, despite a divided Capitol, the 112th Congress will surpass only its record for significant legislation and not those for endless stalemates.

I want to express my appreciation to this wonderful staff we have here. They work so very, very hard. They are here before we arrive in the morning, they are here after we leave, and I am grateful for all they do.

The court reporters are here taking down every word that we say—very professional. The enrollment clerks. Everybody who is here. The Parliamentarians, whom we go to often to tell us the hole we are in and how to get out of it.

I am grateful for everyone here for putting up with me and the hours I feel we have to work with never a complaint. I wish I had the ability to convey what is in my heart—and I certainly don't have the ability to do that—but I want everyone here to know that I am very grateful for everyone here working in such a wonderful manner for our country.

I say to each one of you—I went through a long list of things we have been able to accomplish—we couldn't have done any of this without you. As much as I know about the rules, and I know quite a bit about the rules, I have to depend on the Parliamentarians to tell me—really, to get the real scoop. I admire what they do. They are very fine lawyers. This area of the law they know better than anyone else in the world.

Madam President, I haven't mentioned the police officers, the doorkeepers. These police officers, they are here right now as we speak. Most all in the Chamber, of course, without uniform. We have people every day without any exception wanting to do bad things to this beautiful Capitol Complex. These wonderful police officers keep this building and its inhabitants, the people who work in this building—it is not inhabitants, although I feel I live here sometimes—they keep the thousands of people who work in these Capitol buildings safe. They do such a wonderful job of taking care of us.

Chief Gainer, who is the Sergeant at Arms, is responsible for the police force. He does a wonderful job on this side of the Capitol.

Madam President, I wish you, the Presiding Officer, my dear friend, and everyone here a very happy holiday season. I wish it could have been a little longer, but it is better than a lot thought it would be.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations en bloc: Calendar Nos. 1052, 1180, 1181, 1182, 1183, 1184, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1209, 1210, 1216, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, to and including 1267, and all nominations at the Secretary's desk in the Air Force, Army, Marine Corps, Navy, and the Foreign Service; that the nominations be confirmed, en bloc, and the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements be printed in the RECORD; that the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Jonathan Woodson, of Massachusetts, to be an Assistant Secretary of Defense.

STATE JUSTICE INSTITUTE

Wilfredo Martinez, of Florida, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2013.

Chase Theodora Rogers, of Connecticut, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2012.

Isabel Framer, of Ohio, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2012.

GOVERNMENT ACCOUNTABILITY OFFICE

Eugene Louis Dodaro, of Virginia, to be Comptroller General of the United States for a term of fifteen years.

MISSISSIPPI RIVER COMMISSION

Samuel Epstein Angel, of Arkansas, to be a Member of the Mississippi River Commission for a term of nine years.

DEPARTMENT OF JUSTICE

Michele Marie Leonhart, of California, to be Administrator of Drug Enforcement.

Stacia A. Hylton, of Virginia, to be Director of the United States Marshals Service.

NATIONAL BOARD FOR EDUCATION SCIENCES

Robert Anacletus Underwood, of Guam, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2012.

Anthony Bryk, of California, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2011.

Kris D. Gutierrez, of Colorado, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2012.

DEPARTMENT OF EDUCATION

Sean P. Buckley, of New York, to be Commissioner of Education Statistics for a term expiring June 21, 2015.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

Susan H. Hildreth, of Washington, to be Director of the Institute of Museum and Library Services.

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Allison Blakely, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2016.

UNITED STATES SENTENCING COMMISSION

Patti B. Saris, of Massachusetts, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2015.

Dabney Langhorne Friedrich, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2015.

UNITED STATES SENTENCING COMMISSION

Patti B. Saris, of Massachusetts, to be Chair of the United States Sentencing Commission.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Kevin Glenn Nealer, of Maryland, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2011.

DEPARTMENT OF STATE

Carol Fulp, of Massachusetts, to be a Representative of the United States of America to the Sixty-fifth Session of the General Assembly of the United Nations.

Jeanne Shaheen, of New Hampshire, to be a Representative of the United States of America to the Sixty-fifth Session of the General Assembly of the United Nations.

Roger F. Wicker, of Mississippi, to be a Representative of the United States of America to the Sixty-fifth Session of the General Assembly of the United Nations.

Gregory J. Nickels, of Washington, to be an Alternate Representative of the United States of America to the Sixty-fifth Session of the General Assembly of the United Nations.

William R. Brownfield, of Texas, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs).

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Paige Eve Alexander, of Georgia, to be an Assistant Administrator of the United States Agency for International Development.

MILLENNIUM CHALLENGE CORPORATION

Mark Green, of Wisconsin, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of three years.

DEPARTMENT OF STATE

Thomas R. Nides, of the District of Columbia, to be Deputy Secretary of STate for Management and Resources.

MILLENNIUM CHALLENGE CORPORATION

Alan J. Patricof, of New York, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of two years.

DEPARTMENT OF AGRICULTURE

Ramona Emilia Romero, of Pennsylvania, to be General Counsel of the Department of Agriculture.

SOCIAL SECURITY ADMINISTRATION

Carolyn W. Colvin, of Maryland, to be Deputy Commissioner of Social Security for the term expiring January 19, 2013.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Otis G. Mannon

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Richard T. Devereaux

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Charles R. Davis

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Michelle D. Johnson

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Brett T. Williams

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. James M. Holmes

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

To be brigadier general

Col. Wayne E. Lee

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Timothy T. Jex

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Donald J. Bacon
Colonel Warren D. Berry
Colonel Casey D. Blake
Colonel Mark Anthony Brown
Colonel Stephen A. Clark
Colonel Anthony J. Cotton
Colonel Thomas H. Deale
Colonel Stephen T. Denker
Colonel John L. Dolan
Colonel Michael E. Fortney
Colonel Peter E. Gersten
Colonel Robert P. Givens
Colonel Thomas F. Gould
Colonel Timothy S. Green
Colonel Gina M. Grosso
Colonel Joseph T. Guastella, Jr.
Colonel David A. Harris
Colonel Daryl J. Hauck
Colonel John M. Hicks
Colonel John P. Horner
Colonel Charles K. Hyde
Colonel Patrick C. Malackowski
Colonel James R. Marrs
Colonel Lawrence M. Martin, Jr.
Colonel Jeffrey R. McDaniels
Colonel Mark M. McLeod
Colonel John K. McMullen
Colonel Linda R. Medler
Colonel Matthew H. Molloy
Colonel Michael T. Plehn
Colonel Margaret B. Poore
Colonel Thomas J. Sharpy
Colonel Bradford J. Shwedo
Colonel Richard S. Stapp
Colonel David R. Stilwell
Colonel Roger W. Teague
Colonel David C. Uhrich
Colonel Roger H. Watkins
Colonel Mark W. Westergren
Colonel Scott J. Zobrist

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Thomas P. Harwood, III
Brigadier General Robert K. Millmann, Jr.
Brigadier General William F. Schauffert
Brigadier General Michael N. Wilson
Brigadier General John T. Winters, Jr.

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Colonel Randall C. Guthrie
Colonel Norman R. Ham, Jr.
Colonel Ronald B. Miller
Colonel John J. Mooney, III
Colonel David B. O'Brien
Colonel Richard W. Scobee
Colonel Jocelyn M. Seng
Colonel William B. Waldrop, Jr.
Colonel Tommy J. Williams
Colonel Edward P. Yarish
Colonel Sheila Zuehlke

The following Air National Guard of the United States officers for appointment in the

Reserve of the Air Force to the grades indicated under title 10, U.S.C., sections 12203 and 12212:

To be major general

Brigadier General Frances M. Auclair
Brigadier General Barry K. Coln
Brigadier General Jeffrey R. Johnson
Brigadier General Mary J. Kight
Brigadier General Thomas R. Moore
Brigadier General John F. Nichols
Brigadier General Leon S. Rice
Brigadier General Gary L. Sayler
Brigadier General Scott B. Schofield
Brigadier General Jonathan T. Treacy
Brigadier General Delilah R. Works

To be brigadier general

Colonel Steven P. Bullard
Colonel Michael B. Compton
Colonel Murray A. Hansen
Colonel Jeffrey W. Hauser
Colonel William O. Hill
Colonel Jerome P. Limoge, Jr.
Colonel Donald A. McGregor
Colonel Tony E. McMillian
Colonel Gregory L. Nelson
Colonel Gary L. Nolan
Colonel Michael E. Stencel
Colonel Richard G. Turner
Colonel William L. Welsh
Colonel Daniel J. Zachman

IN THE ARMY

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Jon J. Miller

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert M. Brown

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be brigadier general

Col. Benjamin F. Adams, III

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Douglas P. Anson
Brigadier General Robert G. Catalanotti
Brigadier General Gregory E. Couch
Brigadier General David S. Elmo
Brigadier General Jeffery E. Phillips
Brigadier General Robert P. Stall
Brigadier General Willaim D. Waff

To be brigadier general

Colonel Daniel R. Ammerman
Colonel Edward G. Burley
Colonel William F. Duffy
Colonel Patrick J. Reinert
Colonel Douglas R. Satterfield
Colonel John H. Turner, III
Colonel Hugh C. Vanroosen, II
Colonel Ricky L. Waddell

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Carter F. Ham

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be brigadier general

Col. Brian K. Balfe

The following named officers for appointment to the grade indicated in the United States Army under title 10, U.S.C., section 624:

To be brigadier general

Colonel Bradley A. Becker
Colonel Scott D. Berrier
Colonel Michael A. Bills
Colonel Gwendolyn Bingham
Colonel David J. Bishop
Colonel Matthew L. Brand
Colonel James B. Burton
Colonel John W. Charlton
Colonel Guy T. Cosentino
Colonel James H. Dickinson
Colonel Timothy J. Edens
Colonel Charles A. Flynn
Colonel George J. Franz, III
Colonel Theodore C. Harrison
Colonel Frederick A. Henry
Colonel Terence J. Hildner
Colonel Henry L. Huntley
Colonel Paul C. Hurley, Jr.
Colonel Mark S. Inch
Colonel Ferdinand Irizarry, II
Colonel Thomas S. James, Jr.
Colonel Ole A. Knudson
Colonel Thomas W. Kula
Colonel Clark W. Lemasters, Jr.
Colonel Theodore D. Martin
Colonel Brian J. Mckiernan
Colonel Robin L. Mealer
Colonel John B. Morrison, Jr.
Colonel Sean P. Mulholland
Colonel Kevin G. O'Connell
Colonel Barrye L. Price
Colonel Mark R. Quantock
Colonel James M. Richardson
Colonel Darsie D. Rogers, Jr.
Colonel Martin P. Schweitzer
Colonel Jeffrey A. Sinclair
Colonel Richard L. Stevens
Colonel Peter D. Utley
Colonel Gary J. Volesky
Colonel Kirk F. Vollmecke
Colonel Darryl A. Williams
Colonel Michael E. Williamson
Colonel Cedric T. Wins

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Michael D. Barbero

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael Ferriter

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brig. Gen. Manuel Ortiz, Jr.

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert B. Abrams
Brigadier General Allison T. Aycock
Brigadier General Peter C. Bayer, Jr.
Brigadier General James C Boozer, Sr.
Brigadier General Jeffrey S. Buchanan
Brigadier General Gary H. Cheek
Brigadier General Kendall P. Cox
Brigadier General William T. Crosby
Brigadier General Anthony G. Crutchfield
Brigadier General Peter N. Fuller
Brigadier General William K. Fuller
Brigadier General Walter M. Golden, Jr.
Brigadier General Patrick M. Higgins
Brigadier General Frederick B. Hodges
Brigadier General Anthony R. Ierardi
Brigadier General Richard C. Longo
Brigadier General Alan R. Lynn
Brigadier General David L. Mann
Brigadier General Bradley W. May
Brigadier General Lloyd Miles
Brigadier General Mark A. Milley
Brigadier General Jennifer L. Napper
Brigadier General John W. Nicholson, Jr.
Brigadier General Raymond P. Palumbo
Brigadier General Gary S. Patton
Brigadier General Mark W. Perrin
Brigadier General William E. Rapp
Brigadier General Thomas J. Richardson
Brigadier General Frederick S. Rudesheim
Brigadier General Bennet S. Sacolick
Brigadier General Frank D. Turner, III
Brigadier General Kevin R. Wendel
Brigadier General Larry D. Wyche

The following named officer for appointment to the grade indicated in the United States Army under title 10, U.S. section 624:

To be brigadier general

Col. Jeffrey L. Bailey

The following named officer for appointment to the grade indicated in the United States Army under title 10, U.S.C., section 624:

To be brigadier general

Col. Curt A. Rauhut

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., sections 624, 3037, and 3064:

To be brigadier general, judge advocate general's corps

Col. Flora D. Darpino

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C. sections 12203 and 12211:

To be major general

Brigadier General Joseph L. Culver
Brigadier General Francis P. Gonzales
Brigadier General David L. Harris
Brigadier General James R. Joseph
Brigadier General Jeff W. Mathis, III
Brigadier General Henry C. McCann
Brigadier General Steven N. Wickstrom

To be brigadier general

Colonel James A. Adkins
Colonel Deborah A. Ashenhurst
Colonel Elizabeth D. Austin
Colonel Linda C. Bode
Colonel Darlene M. Goff
Colonel Scott A. Gronewold
Colonel Brian C. Harris
Colonel James H. Harris
Colonel Samuel L. Henry
Colonel Jay J. Hooper
Colonel Keith E. Knowlton
Colonel Francis S. Laudano, III
Colonel Rusty L. Lingenfelter
Colonel Judd H. Lyons
Colonel Eugene L. Mascolo
Colonel Michael W. McHenry
Colonel Kevin L. McNeely
Colonel Glen E. Moore
Colonel Oliver L. Norrell, III
Colonel William J. O'Neill
Colonel Victor S. Perez
Colonel Harve T. Romine
Colonel Joanne F. Sheridan
Colonel Paul G. Smith
Colonel Peter C. Vanamburgh
Colonel Kathy J. Wright

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated

under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Ricky G. Adams
Brigadier General Barbaranette T. Bolden
Brigadier General Glenn H. Curtis
Brigadier General Stephen C. Dabadie
Brigadier General Jonathan E. Farnham
Brigadier General Leodis T. Jennings
Brigadier General Scott W. Johnson

To be brigadier general

Colonel Dominic D. Archibald
Colonel Arthur G. Austin, Jr.
Colonel Craig A. Bargfrede
Colonel Courtney P. Carr
Colonel Joel D. Cusker
Colonel Patrick J. Dolan
Colonel David A. Galloway
Colonel Scott F. Gedling
Colonel Kevin s. Gerdes
Colonel Juan L. Griego
Colonel Ralph H. Groover, III
Colonel Stephen R. Hogan
Colonel Daniel R. Hokanson
Colonel Gary E. Huffman
Colonel Ruth A. Irwin
Colonel Stephen E. Joyce
Colonel Richard F. Keene
Colonel Terry A. Lambert
Colonel Daniel B. Leatherman
Colonel Elton Lewis
Colonel Timothy M. McKeithen
Colonel Paul J. Pena
Colonel Matthew T. Quinn
Colonel Mark A. Russo
Colonel Orlando Salinas
Colonel Bryan L. Saucerman
Colonel Michael D. Schwartz
Colonel Timothy L. Sheppard
Colonel Rex A. Spitler
Colonel Donald B. Tatum
Colonel James E. Taylor

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Howard B. Bromberg

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Gregory W. Batts
Brigadier General Brent M. Boyles
Brigadier General Jefferson S. Burton
Brigadier General Lawrence E. Dudney, Jr.
Brigadier General Burton K. Francisco
Brigadier General Charles H. Gailes, Jr.
Brigadier General Gary M. Hara
Brigadier General Timothy J. Kadavy
Brigadier General Patrick A. Murphy
Brigadier General Timothy E. Orr
Brigadier General David C. Petersen

To be brigadier general

Colonel Jerry R. Acton, Jr.
Colonel Dallen S. Atack
Colonel James P. Begley, III
Colonel Alan J. Butson
Colonel Walter E. Fountain
Colonel Richard J. Gallant
Colonel Alberto C. Gonzalez
Colonel Johnny H. Isaak
Colonel Gregory L. Kennedy
Colonel Arthur J. Logan
Colonel Neal G. Loidolt
Colonel Jeffrey P. Marlette
Colonel Ted Martinell
Colonel Edward R. Morgan
Colonel Michael D. Navrkal
Colonel Leesa J. Papier
Colonel Kenneth L. Reiner
Colonel Sean A. Ryan
Colonel Kenneth A. Sanchez
Colonel Steven T. Scott
Colonel William L. Stoppel
Colonel Lee E. Tafanelli
Colonel Keith Y. Tamashiro
Colonel Guy E. Thomas
Colonel Neil H. Tolley
Colonel David S. Visser
Colonel Marianne E. Watson
Colonel Martha N. Wong
Colonel Anthony Woods

IN THE NAVY

The following named officer for appointment in the United States Navy Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Thomas E. Beeman

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Gerald R. Beaman

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 156:

To be rear admiral (lower half)

Capt. James W. Crawford, III

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Richard W. Hunt

IN THE MARINE CORPS

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Kenneth F. McKenzie, Jr.

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John M. Paxton, Jr.

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Kenneth J. Glueck, Jr.

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert E. Milstead, Jr.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN2228 AIR FORCE nominations (1196) beginning BRIAN F. ABELL, and ending RAY A. ZUNIGA, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 2010.

PN2308 AIR FORCE nomination of Joseph T. Fetsch, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2309 AIR FORCE nomination of Suzanne M. Henderson, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2310 AIR FORCE nominations (4) beginning CHARLES R. CORNELISSE, and ending GERALD D. MCMANUS, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2311 AIR FORCE nominations (7) beginning ENEYA H. MULAGHA, and ending CLAUDIA P. ZIMMERMANN, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2312 AIR FORCE nominations (8) beginning LENA R. HASKELL, and ending WILLIAM A. SOBLE, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2314 AIR FORCE nominations (14) beginning RANDON H. DRAPER, and ending ANDREW S. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2315 AIR FORCE nominations (16) beginning JANELLE E. COSTA, and ending JEROME E. WIZDA, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2317 AIR FORCE nominations (44) beginning WILLIAM J. ANNEXSTAD, and ending STACEY J. VETTER, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2318 AIR FORCE nominations (82) beginning RYAN J. ALBRECHT, and ending GABRIEL MATTHEW YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2357 AIR FORCE nomination of Paul L. Sherouse, which was received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2358 AIR FORCE nomination of Gabriel C. Avilla, which was received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2359 AIR FORCE nominations (5) beginning NATHAN P. CHRISTENSEN, and ending SARA A. WHITTINGHAM, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2387 AIR FORCE nominations (287) beginning JESSICA L. ABBOTT, and ending ANDREW J. WYNN, which nominations were received by the Senate and appeared in the Congressional Record of December 8, 2010.

PN2388 AIR FORCE nominations (154) beginning EDWARD R. ANDERSON, III, and ending DAVID H. ZONIES, which nominations were received by the Senate and appeared in the Congressional Record of December 8, 2010.

PN2389 AIR FORCE nominations (44) beginning MICHAEL J. ALFARO, and ending SARA M. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of December 8, 2010.

PN2390 AIR FORCE nominations (25) beginning COREY R. ANDERSON, and ending SON X. VU, which nominations were received by the Senate and appeared in the Congressional Record of December 8, 2010.

IN THE ARMY

PN2009 ARMY nomination of Michael P. McGaffigan, which was received by the Senate and appeared in the Congressional Record of July 21, 2010.

PN2192 ARMY nominations (16) beginning EDWIN E. AHL, and ending D002419, which nominations were received by the Senate and

appeared in the Congressional Record of September 20, 2010.

PN2268 ARMY nominations (6) beginning DIANE J. BOESE, and ending PHILIP N. WASYLINA, which nominations were received by the Senate and appeared in the Congressional Record of September 29, 2010.

PN2319 ARMY nomination of Robert C. Dorman, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2320 ARMY nomination of David A. Niemiec, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2321 ARMY nomination of William L. Vanasse, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2322 ARMY nomination of George A. Carpenter, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2323 ARMY nomination of Susan A. Castorina, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2324 ARMY nominations (2) beginning THERESA C. COWGER, and ending MARIE N. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2325 ARMY nominations (2) beginning PAULA S. OLIVER, and ending GARY D. RIGGS, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2326 ARMY nominations (4) beginning JOSEPH C. CARVER, and ending GARY L. PAULSON, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2327 ARMY nomination of John E. Johnson, II, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2328 ARMY nomination of Andrew S. Dreier, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2329 ARMY nominations (5) beginning KEVIN D. ELLSON, and ending STEVEN J. OLSON, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2330 ARMY nominations (9) beginning PHILLIP R. GLICK, and ending WILLIAM G. SUVER, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2331 ARMY nominations (62) beginning KEVIN ACOSTA, and ending ROBERT K. YIM, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2332 ARMY nominations (125) beginning MARY E. ABRAMS, and ending D002043, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2333 ARMY nominations (157) beginning TIMOTHY P. ALBERS, and ending G001187, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2334 ARMY nominations (194) beginning ELLEN J. ABBOTT, and ending MICHAEL W. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2335 ARMY nominations (226) beginning JOHN C. ALLRED, and ending D001821, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2336 ARMY nominations (266) beginning JOHN W. AARSEN, and ending LOREN T. ZWEIG, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2337 ARMY nominations (5) beginning JOHN G. FELTZ, and ending LOUIS W. WILHAM, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2360 ARMY nomination of Kathleen M. Flocke, which was received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2361 ARMY nomination of Gary A. Vroegindewey, which was received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2362 ARMY nominations (5) beginning CRAIG S. BROOKS, and ending BENNIE W. SWINK, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

IN THE FOREIGN SERVICE

PN2025 FOREIGN SERVICE nominations (228) beginning Connor Cherer, and ending Bernadette Regina Zielinski, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2010.

PN2214 FOREIGN SERVICE nominations (94) beginning Heather M. Rogers, and ending Stephanie L. Woodard, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 2010.

PN2215 FOREIGN SERVICE nominations (25) beginning Joseph Farinella, and ending Joseph C. Williams, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 2010.

PN2265 FOREIGN SERVICE nominations (150) beginning Patricia A. Butenis, and ending Keith A. Swinehart, which nominations were received by the Senate and appeared in the Congressional Record of September 29, 2010.

PN2298 FOREIGN SERVICE nominations (137) beginning Louis John Fintor, and ending Thomas F. Gray, Jr., which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2299 FOREIGN SERVICE nominations (266) beginning Alan Hallman, and ending Richard G. Simpson, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2300 FOREIGN SERVICE nominations (2) beginning Lloyd S. Harbert, and ending Daryl A. Brehm, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2354 FOREIGN SERVICE nominations (3) beginning James Franklin Jeffrey, and ending Earl A. Wayne, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

IN THE MARINE CORPS

PN2363 MARINE CORPS nominations (6) beginning BRANDON M. BOLLING, and ending WYETH M. TOWLE, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

IN THE NAVY

PN2269 NAVY nominations (2) beginning PATRICK C. DANIELS, and ending THOMAS L. EDLER, which nominations were received by the Senate and appeared in the Congressional Record of September 29, 2010.

PN2291 NAVY nomination of Matthew R. Fomby, which was received by the Senate and appeared in the Congressional Record of November 15, 2010.

PN2292 NAVY nomination of Ronny L. Jackson, which was received by the Senate and appeared in the Congressional Record of November 15, 2010.

PN2338 NAVY nomination of Frederick G. Panico, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2339 NAVY nominations (3) beginning DANIEL J. TRAUB, and ending WAYNE M. BURR, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2364 NAVY nominations (43) beginning AUNTOWHAN M. ANDREWS, and ending CHRISTOPHER W. WOLFF, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2365 NAVY nominations (7) beginning MATTHEW A. MCQUEEN, and ending CHARLES E. VARSOGEA, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2391 NAVY nomination of Brian L. Beatty, which was received by the Senate and appeared in the Congressional Record of December 8, 2010.

PN2392 NAVY nomination of Jon C. Cannon, which was received by the Senate and appeared in the Congressional Record of December 8, 2010.

NOMINATIONS DISCHARGED

Mr. BAYH. Madam President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from the following nominations: PN 2350 and PN 2351; that the Senate then proceed en bloc to the nominations; that the nominations be confirmed en bloc and the motions to reconsider be laid upon the table; that any statements relating to the nominations be printed in the RECORD and the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Russel Edwin Burger, of Oregon, to be United States Marshal for the District of Oregon for the term of four years.

Charles Edward Andrews, of Alabama, to be United States Marshal for the Southern District of Alabama for the term of four years.

Mr. BAYH. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of the following nomination, PN 2374, and the Senate proceed to the nomination; that the nomination be confirmed, the motion to reconsider be laid upon the table; that any statements related to the nomination be printed in the RECORD, and the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

Christopher R. Thyer, of Arkansas, to be United States Attorney for the Eastern District of Arkansas for the term of four years.

EXECUTIVE CALENDAR

Mr. BAYH. I ask unanimous consent that the Senate proceed to the immediate consideration of the following

nominations en bloc: Calendar Nos. 616, 617, 618, 619, and 620; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table with no intervening action or debate, en bloc; that no further motions be in order; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Jacqueline A. Berrien, of New York, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2014.

Chai Rachel Feldblum, of Maryland, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2013.

P. David Lopez, of Arizona, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

Victoria A. Lipnic, of Virginia, to be a Member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 2010.

Victoria A. Lipnic, of Virginia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2015.

NOMINATION OF LOUIS BUTLER

Mr. KOHL. Madam President, I am deeply disappointed that the Senate has failed to vote on Louis Butler's nomination to the district court for the Western District of Wisconsin. The partisan bickering that has prevented a debate and vote on several district court nominees is a stark reversal of Senate tradition and practice.

Justice Butler is exceptionally well qualified for the Federal bench. By dint of hard work and perseverance, Justice Butler rose from humble beginnings to be an accomplished lawyer, advocate, trial court judge, Wisconsin Supreme Court justice, and professor. Few nominees have such a strong record of public service. Justice Butler's career has been distinguished by the years he has spent fulfilling the Constitution's guarantee of an attorney and fair trial for all Americans, rich and poor alike. He cut his teeth as a young lawyer representing defendants who could not afford legal representation. As a trial court judge, he earned a reputation for being a tough but fair jurist and was recognized as a top Milwaukee judge.

Justice Butler was the first African American to sit on the Wisconsin Supreme Court and he served there with distinction for 4 years. During his time on the court, he participated in hundreds of cases, many of which were decided by a unanimous or near-unanimous court. He proved himself to be a hard-working, thoughtful and consensus-building justice.

We ask our judges to make the most difficult decisions in the closest cases, neither an easy nor simple task. Over the course of Justice Butler's tenure as a trial judge and a State supreme court justice, he has faithfully carried out this duty by following the law with the impartiality, integrity and respect that we demand of a judge. Justice Butler has an impressive legal background that would serve our Federal bench well. Indeed he is a very fine man. He is deeply committed to the law, to his community, and to his family.

Justice Butler's nomination proves once again that the process we use in Wisconsin to choose Federal judges and U.S. attorneys ensures excellence. The Wisconsin Federal Nominating Commission has been used to select Federal judges and U.S. attorneys in Wisconsin for 30 years. Through a great deal of cooperation and careful consideration, and by keeping politics to a minimum, we always find highly qualified candidates like Justice Butler.

I believe that Justice Butler would make a fine addition to the Federal bench, and I regret that he and other district court nominees have not been given the up-or-down votes that they deserve.

NOMINATIONS OF GOODWIN LIU AND EDWARD CHEN

Mrs. FEINSTEIN. Madam President, I rise today to discuss two promising Asian-American judicial nominees from my State of California who have been denied simple, straightforward up-or-down votes on the floor of this body for what I believe are very spurious reasons.

Goodwin Liu is associate dean and professor of law at the University of California, Berkeley, Boalt Hall School of Law. He has a truly outstanding record as a great legal mind:

> Phi Beta Kappa from Stanford and co-president of the Student Body; a Rhodes Scholar at Oxford; a J.D. from Yale Law School and an editor on the Yale Law Journal; judicial clerkships on the D.C. Circuit and the U.S. Supreme Court; recipient of both the Education Law Association's Award for Distinguished Scholarship and the University of California at Berkeley's highest award for teaching.

Recognizing his brilliance, President Obama chose Professor Liu for a seat on the Court of Appeals for the Ninth Circuit.

I have met personally with Goodwin Liu on several occasions, including a 4-hour discussion. I had him to my home for dinner. His status as a first-rate legal mind is undeniable.

And his support for this nomination is legion:

> Justice Ruth Bader Ginsburg, former judge and Solicitor General Ken Starr, leading conservative lawyer Clint Bolick, California Correctional Peace Officers Association, 34 former prosecutors, Numerous education leaders, including former Secretary of Education Richard Riley and Joel Klein, the Chancellor of the New York City schools, and Numerous representatives of the Asian-American community.

One set of support was particularly impressive to me. In the only time that I have seen the serving president and two former presidents of a major university write in support of a nominee or issue, the three most recent presidents of Stanford University, John Hennessy, Gerhard Casper, and Donald Kennedy, wrote to support Professor Liu's nomination, saying, in part:

> Goodwin Liu as a student, scholar, and trustee has epitomized the goal of Stanford's founders, which was ''to promote the public welfare by exercising an influence on behalf of humanity and civilization, teaching the blessings of liberty regulated by law, and inculcating love and reverence for the great principles of government as derived from the inalienable rights of man to life, liberty and the pursuit of happiness.'' We highly recommend Goodwin Liu for the honor and responsibility of serving on the United States Court of Appeals for the Ninth Circuit.

I admit that some of Professor Liu's writing have been questioned by conservatives. It is true that Goodwin Liu would not be a conservative judge. However, I do not believe that he would be an activist judge.

As I have watched debates over the judiciary in my eighteen years in the Senate, the perception of ''judicial activism'' is for the party on the other side. Many believe that this current Supreme Court under Chief Justice Roberts is one of the more activist courts ever. It is indisputable that it has overturned many precedents that had stood for decades.

Goodwin Liu deserves to have a fair up-or-down vote, as other controversial circuit court nominees have received. If a senator opposes his nomination, let them vote against him. That is what we are here for—to cast our votes yea or nay, up or down. But don't let Professor Liu die on the calendar, without even having the courage to give him a vote.

Even worse in many ways is the similar treatment that Magistrate Judge Edward Chen has received. I recommended Judge Chen for a judgeship in the Northern District of California. If confirmed, he would be the first judge of Chinese descent to serve in this district, with its notable Chinese heritage.

This would not be a novel role for Judge Chen: for the past 9 years, he has served as a magistrate judge on this same court. And his service there has been impeccable, and apparently unassailable: he has written more than 350 published opinions in that time, and there has not been an objection to a single one of them.

But opponents of his nomination are hanging their hat on one quote from him, taken out of context.

One of the darkest chapters in this country's history was the wholesale internment of Japanese-Americans during World War II. The Supreme Court upheld this heinous practice in the notorious case of Korematsu v. United States. In 1988, Congress passed and President Reagan signed the Civil Liberties Act and issued a formal apology for the internment. Before serving as a magistrate judge, Ed Chen represented the name party in that case, Fred

Korematsu, in his successful effort to overturn his conviction for defying the internment order.

In 2005, Judge Chen attended Mr. Korematsu's funeral, and spoke about it a month later to law students. The line that critics have seized upon came from this speech, where Judge Chen said that, while listening to the congregation sing ''America the Beautiful'' at the funeral, he sometimes had ''Feelings of ambivalence and cynicism when confronted with appeals to patriotism—sometimes I cannot help but feel that there are too much [sic] injustice and too many inequalities that prevent far too many Americans from enjoying the beauty extolled in that anthem.''

But the critics omit what Chen said right after that quotation:

> Yet I was moved to tears at Fred's memorial. Why? In part, Fred was a living example of the patriotism embodied in the song. Korematsu demonstrated that patriotism not by waving an American flag, but by trying to vindicate the values and principles that are embodied in that flag freedom, justice and equality under the law. . . . I was also moved not only because ''America the Beautiful'' echoed what I saw [in] Fred. It was also because the song described the America that Fred envision[ed]. The America whose promised beauty he sought to fulfill, an America true to its founding principles.

Judge Chen didn't object to singing ''America the Beautiful''—he was moved to tears by it.

Judge Chen's nomination enjoys widespread support, with extensive support from the law enforcement community, including: San Francisco Deputy Sheriffs' Association, Northern Alliance of Law Enforcement, which represents 20 different law enforcement associations in Northern California, Peace Officers Research Association of California, 11 former Federal prosecutors for the Northern District of California and former San Francisco Chief of Police Anthony Ribera.

And the list goes on.

He also has widespread support from the bar, including the Bar Association of San Francisco, Hispanic National Bar Association, and many others.

Yet despite this support, his nomination has been subjected to repeated, exceptional delay and obstruction, even being returned to the President during congressional recesses.

The day was when district court nominees supported by both home State Senators with extensive law enforcement and legal community support were confirmed routinely. It is time now to end this delay and obstruction, give Ed Chen the fair up-or-down vote he so richly deserves, and confirm this well-proven, qualified nominee to the Federal district court.

NOMINATION OF BERYL HOWELL

Mr. LEAHY. I want to say a few words about one of the highly qualified nominees belatedly confirmed by the Senate today. Beryl Howell has been confirmed to fill a vacancy on the District Court for the District of Columbia. Many of us on the Judiciary Committee remember her from the 10 years she served as my general counsel and as one of the most effective members of our Judiciary Committee staff. With her background as a highly decorated Federal prosecutor, she worked on issues ranging from criminal justice and national security, to the Digital Millennium Copyright Act, the Anti-Cybersquatting Consumer Protection Act, and the No Electronic Theft Act. She worked on the National Information Infrastructure Protection Act and the computer fraud and abuse statute, and on important oversight matters including the Judiciary Committee's bipartisan hearings on Ruby Ridge that led to improvements at the Federal Bureau of Investigation, FBI. She also played important roles in electronic freedom of information initiatives, which earned her induction into the Freedom of Information Act Hall of Fame.

When I had the chance to introduce Ms. Howell to the committee at her hearing in July, I discussed her impressive background before she joined the committee staff. She grew up in a proud military family. She was awarded her undergraduate degree with honors in philosophy from Bryn Mawr College in Pennsylvania, and earned her law degree at Columbia University School of Law, where she was a Harlan Fiske Stone Scholar. She clerked for Judge Dickinson Debevoise on the U.S. District Court for the District of New Jersey.

Having worked as a student assistant in a U.S. Attorney's Office, she joined the U.S. Attorney's Office for the Eastern District of New York in 1987, working there almost 6 years, rising to be the Deputy Chief of the Narcotics Section. Her grand jury investigations and prosecutions included complex public corruption, narcotics, and money laundering cases.

Descriptions of her cases read like crime novels. She successfully prosecuted the leadership of a Chinatown gang, called the Flying Dragons, for heroin trafficking, and extradited the head of the gang after he fled to Hong Kong. She successfully prosecuted a group of Colombian drug dealers and arrested the gang members just as they were packing almost $20 million in cash from narcotics proceeds into a hidden compartment of a truck to smuggle it out of the country. Then some of these defendants attempted a prison escape by bribing officials, and she successfully prosecuted the perpetrators of the escape plan. She also handled the successful investigation and prosecution of over 20 corrupt New York City building inspectors engaged in extortion.

Ms. Howell's work was recognized by her twice being awarded the U.S. Attorney Special Achievement Award for Sustained Superior Performance, by commendations from the FBI, DEA, and the New York City Department of Investigation, and ultimately by the prestigious Attorney General's Director's Award for Superior Performance. I always felt lucky to have hired her.

Ms. Howell's career since she left us 7 years ago has been equally impressive. She established the Washington, DC, office of a consulting and technical services firm specializing in digital forensics, computer fraud, and abuse investigations as the Executive Managing Director and general counsel of Stroz Friedberg. While in the private sector, she received the FBI Director's Award for her work assisting in a Government cyber-extortion investigation.

Ms. Howell has twice been confirmed by the Senate to serve as a member of the bipartisan U.S. Sentencing Commission, to which she was appointed by President Bush. She contributed to the Sentencing Commission report that led to our breakthrough this year with Senate passage of historic legislation that Senator DURBIN crafted to end sentencing disparities, the Fair Sentencing Act.

She and her husband have raised their three children in the District and are long-time citizens here. That involvement, her public service background, and her steadfast commitment to justice make her an ideal nominee. I commend President Obama for choosing to nominate her. I thank the committee for acting to favorably report her nomination unanimously in September. I am glad the Senate has now followed suit and confirmed her unanimously to serve all the people of the District of Columbia fairly and impartially as a U.S. district court judge.

Mr. MCCONNELL. Madam President, I am pleased the Senate in this Congress was able to make good progress on filling judicial vacancies, especially those vacancies that the Democratic majority unfortunately and sometimes inexplicably failed to fill during the last 2 years of the Bush Administration.

The progress we have made is especially noteworthy given the demands placed upon the Judiciary Committee by having to process not one, but two, Supreme Court nominations. The Sotomayor and Kagan nominations together took approximately 6 months of the Committee's time. Nevertheless, the Senate was able to confirm a total of 60 lower court nominations in this Congress, including 19 nominations while the Kagan nomination was pending. By comparison, the last time the Senate had to process two Supreme Court nominations in the same Congress, which were the Roberts and Alito nominations during the 109th Congress, the Senate was able to fill only 51 lower court judicial vacancies, and it confirmed far fewer lower court nominations while the Roberts and Altio nominations were pending.

This Congress was also able to fill some long-standing vacancies, especially on our courts of appeals. At the end of the Bush administration, there

were 15 judicial emergencies; this Congress was able to fill 10 of those 15 judicial emergencies, including numerous judicial emergencies on our circuit courts. The Fourth Circuit is illustrative of the commitment of Senate Republicans to work in a bipartisan fashion to this end.

At the end of the last Congress, the Fourth Circuit was almost one-third vacant, despite the fact that President Bush had nominated outstanding candidates for these positions. These nominees enjoyed strong home State support, including some with strong bipartisan, home-state support. Yet our Democratic friends refused to move these nominations. By contrast, this Congress put partisanship aside and filled all four of these vacancies, giving badly-needed relief to a long suffering Federal circuit.

We could have made more progress still. But unfortunately, the President failed to put forth, and the Democratic Majority failed to move, nominations for the vast majority of the current federal vacancies. Specifically, the President has failed to even nominate individuals for most of the current district court vacancies, putting forth only 34 nominations, even though there are 76 vacancies. And of those district court nominations he has put forth, 18 of them remain in the Democratic-controlled Judiciary Committee. The story is similar for our circuit courts: there are 16 vacancies there, but the White House has failed to even nominate candidates for seven of those vacancies. And of those circuit court nominations he has made, 6 remain in the Judiciary Committee. All told, of the current vacancies on our Federal courts 80 percent of these seats remain vacant because the President either has not nominated anyone, or our Democratic colleagues have not processed the ones he has nominated.

Which brings us to the judicial nominations remaining on the Senate floor. Four of these nominations are very controversial. Their statements, writings, and records show a willingness to put their own views ahead of the dictates of the law and the Constitution. As a result, Senate Republicans are not prepared to consent to their confirmation, or to a process that will facilitate their confirmation.

The remaining 15 nominations pending on the Senate floor were not reported out of the Judiciary Committee until the waning days of this Congress. This is unfortunate. Most of these nominations are to fill vacancies that have existed for years; in some cases, for 2 or 3 years, or even longer. I do not know why these nominations were not reported out of the Judiciary Committee until December. While we were worked diligently in the lameduck session to fill numerous judicial vacancies—confirming 19 judicial nominees total—we were not able to process the remaining 15 nominations that the committee approved late in this year.

But our record of confirming judicial nominations in this lameduck Congress certainly compares favorably to the progress that was made on judicial nominations in other lameduck Congresses. In the lameduck session of the last Congress, the Senate did not confirm any judicial nominees. Thirty judicial nominations were not acted upon in that session, despite the urgent need for judges on places like the Fourth Circuit. In the lameduck session of the Congress before that, our Democratic colleagues did not consent to confirming any judicial nominees; the one judicial nomination that occurred in the lameduck session of the 109th Congress was achieved by the Republican majority filing cloture on a nominee. Cloture was invoked on that nomination by a vote of 93 to 0, and he was confirmed. But 38 other judicial nominations were not acted upon in that Congress, including 15 who were ripe for action on the Senate floor. In the lameduck session of the 108th Congress, only 3 nominations were confirmed, all to the district court. Almost two dozen judicial nominations were not acted upon in that lameduck session, including several who were pending on the Senate floor. In fact, the last time a Senate confirmed as many judicial nominations in a lameduck session of Congress as were confirmed in the lameduck session of this Congress was in 2002, when 20 judicial nominees were confirmed at the end of the 107th Congress.

I am hopeful we can continue to work in a bipartisan fashion in the next Congress on judicial nominations and that the President will join us in that effort by not nominating or re-nominating judicial nominees who show a willingness to follow their own beliefs, rather than the requirements of the law.

Mr. LEAHY. Madam President, as the 111th Congress draws to a close, Senate Republicans have finally consented to consider half of the judicial nominations that have been pending on the Senate's Executive Calendar, some for nearly a year, awaiting a final Senate vote. We began with 38 judicial nominees to be considered and the Senate is being prevented from voting on 19. These are all superbly qualified nominees, most were reported with bipartisan support and many unanimously. Thirteen of these nominations on which we are not being allowed to vote are to fill judicial emergency vacancies, as determined by the nonpartisan Administrative Office of the U.S. Courts. Yet for month after month, many of these nominations have been stalled, just languishing before the Senate as Senate Republicans refused to consent to moving forward. Congress will adjourn for the year without completing its work on these nominations.

Senate Republicans' strategy of delaying and blocking judicial nominations across the board has led to judicial vacancies nearly doubling over the last 2 years. Vacancies remain at nearly 100 with more than 40 judicial emergencies. The Republican leadership was unmoved by pleas from the President, the Attorney General, two Supreme Court Justices, the President of the American Bar Association, the Federal Bar Association, retired Federal judges, current chief judges and Federal prosecutors calling on the Senate to address the growing vacancies crisis. They disregarded the pleas to end the senseless delays and needless blockade of consensus nominations and to vote whether to confirm the nominations sent forward by the Senate Judiciary Committee to fill the vacancies in the Federal courts.

Each of the judicial nominations now before the Senate will upon adjournment be returned to the President, the vacancy will remain, and the confirmation process will have to start over next year. Just a few years ago Senate Republicans were united in demanding that every nomination reported by the Senate Judiciary Committee to the Senate deserved a vote. They argued that was our constitutional duty. Well, the Constitution has not been amended. The only thing that has changed is that the American people changed Presidents.

In 2001 and 2002, the first 2 years of the Bush administration, the Senate Judiciary Committee reported 100 judicial nominees of President Bush. I was the chairman. We did not adjourn in 2002 until we had given a vote to every one of those 100 nominees and confirmed them. I did not support all of them but I did not prevent those votes. I worked to fill the vacancies on the Federal courts. That was with a Democratic majority in the Senate. All 100 were considered before the end of the 107th Congress, including two controversial circuit court nominations reported and then confirmed during the lameduck session in 2002, after the midterm elections.

This Congress the Senate Judiciary Committee held hearings, considered and was able to favorably report 80 nominees to Federal circuit and district court vacancies. Only 60 have been allowed Senate votes. This is a historically low number and percentage for the first two years of a new Presidency. Last year only 12 Federal circuit and district court judges were confirmed. It was the lowest number in more than 50 years. This year the Senate has been allowed to consider fewer than 50 judicial nominees. That has led to the lowest confirmation total for the first 2 years of a new Presidency in 35 years. And this is taking place during a period when Federal judicial vacancies have doubled.

By nearly every measure—the number of nominees confirmed, the percentage of nominees confirmed, the pace of nominees being considered on the floor, the skyrocketing vacancy numbers—the results are dismal. During the first 2 years of the Bush administration, Democrats in the Senate worked to consider and confirm 100 judicial nominees. During the first two years of the Obama administration,

Senate Republicans have limited Federal circuit and district court confirmations to 60. They were delayed on average six times longer than it took President Bush's judicial nominees to be considered by the Senate.

Senate Republicans have returned to the strategy they used during the Clinton administration, when they pocket filibustered more than 60 of his judicial nominations, leading to a vacancy crisis. Their years of refusing to proceed on President Clinton's nominations led Chief Justice William Rehnquist, a conservative appointed by Republican Presidents, to chastise them for failing to address the needs of the Federal judiciary. In those days, Federal judicial vacancies rose to more than 110 by the end of the Clinton administration, a historically high vacancy number. Current across the board delays eventuated in 111 Federal court vacancies this year.

When Democrats regained the Senate majority halfway into President Bush's first year in office, we reported and confirmed 100 judicial nominees during the 17 months I served as chairman of the Judiciary Committee in the 107th Congress. We continued to work cooperatively to make progress on nominations whether in the majority or the minority for the rest of President Bush's administration. As a result, overall judicial vacancies were reduced during the Bush years from more than 10 percent to less than four percent. During the Bush years, the Federal court vacancies were reduced from 110 to 34 and Federal circuit court vacancies were reduced from a high of 32 down to single digits.

This progress has not continued once the American people elected President Obama. Senate Republicans have returned to the strategy of across-the-board delays and obstruction of the President's judicial nominations, again leading to skyrocketing vacancies. Last year the Senate confirmed only 12 Federal circuit and district court judges, the lowest total in 50 years. This year we confirmed less than 50 more Federal circuit and district judges. That has led to the lowest confirmation total for the first 2 years of a new Presidency in 35 years. We are not even keeping up with retirements and attrition. As a result, judicial vacancies rose again over 110 again this year.

The Senate's Republican leadership seems determined to end the Congress as it began it, obstructing President Obama's judicial nominations. In November 2009, the Senate confirmed Judge David Hamilton of Indiana to the Seventh Circuit after rejecting a Republican filibuster of President Obama's first judicial nomination. Judge Hamilton was no radical. He had the support of the Senate's senior Republican, the senior Senator from Indiana. He had served nearly 15 years on the Federal bench. Rather than welcome the nomination as an effort by President Obama to step away from the ideological battles of the past, Senate Republicans ignored Senator LUGAR'S support, distorting Judge Hamilton's record and filibustering his nomination. Republican Senators who had recently pledged never to filibuster a judicial nominee and those who had said they would do so only under extraordinary circumstances reversed themselves and joined the partisan filibuster. Republican Senators who just a few years earlier had proclaimed such filibusters unconstitutional also joined. They abandoned all they had said and filibustered a preacher's son and fine judge who was known to and supported by his respected Republican home State Senator.

In filibustering President Obama's first judicial nomination, Senate Republicans also ignored the standard they had set in a letter they sent to President Obama before he had made a single judicial nomination. In that letter, they threatened to filibuster any nomination made without consultation. Despite the fact that President Obama has reached across the aisle to consult, as he did with Senator LUGAR of Indiana, Senate Republicans have filibustered and delayed judicial nominations virtually across the board.

Delays and obstruction of Senate consideration has attended virtually all of well-qualified judicial nominees. Contrary to their statements during the Bush administration that every judicial nomination reported by the Senate Judiciary Committee was entitled to an up-or-down vote, Senate Republicans have refused consent for up-or-down votes on nominee after nominee. Since the filibuster of Judge Hamilton, they have required the Majority Leader to file cloture on other highly qualified circuit court nominees, indeed on a quarter of the 16 circuit court nominees the Senate has been allowed to consider.

No Senator could claim the circumstances surrounding the filibusters of President Obama's circuit court nominations to be extraordinary. Republicans filibustered the nomination of Judge Barbara Keenan, a nominee with nearly 30 years of judicial experience, and the first woman to hold a number of important judicial roles in Virginia. She was then confirmed 99–0 as the first woman from Virginia to serve on the Fourth Circuit Court of Appeals. They filibustered the nomination of Judge Thomas Vanaskie, whose 16 years of a experience as a Federal district court judge in Pennsylvania are now being put to good use on the Third Circuit. They filibustered Judge Denny Chin of the Second Circuit, who also had 16 years of experience as a Federal district court judge. He is now the only active Asian Pacific American judge to serve on a Federal appellate court, and his nomination was confirmed unanimously.

Senate Republicans' tactics reached a new low as they obstructed consideration of district court nominations. The blockade of these nominations is a dramatic departure from the traditional practice of considering district court nominations expeditiously and with deference to home state Senators. Among these nominations were Louis Butler of Wisconsin, Edward Chen of California, and John McConnell of Rhode Island. These nominees were reported by the Committee several times with strong support from their home State Senators who know the nominees and the needs of the courts in their States best. All three were pending for months on the Senate Calendar. In fact, Justice Butler and Judge Chen were first reported by the Judiciary Committee over a year ago. Obstruction of these district court nominations is unprecedented.

Since 1945, the Judiciary Committee has reported more than 2,100 district court nominees to the Senate. Out of these 2,100 nominees, only 5 have been reported by party-line votes, and 4 of the 5 occurred in this Congress. Less than 20 of the 2,100 nominees faced any opposition in Committee. Since 1949, cloture motions have been filed on only three district court nominations. All three nominations were confirmed, and in fact two of the cloture petitions were withdrawn. This year Republican opposition to the Butler, Chen and McConnell nominations would have required clotures on all three, meaning that in 1 year they would have matched the number of cloture motions filed on district court nominees over the past 62 years.

These nominees are outstanding Americans who do us a great service by their willingness to serve on our Federal courts. Justice Louis Butler, Jr., was nominated to fill an emergency vacancy on the U.S. District Court for the Western District of Wisconsin. He has 16 years of judicial experience at the municipal and State court level and was the first African American to serve on the Wisconsin Supreme Court. He has the strong support of both of his home State Senators and he earned the highest possible rating, unanimously well qualified, from the Standing Committee on the Federal Judiciary of the American Bar Association, ABA.

Judge Edward Chen was nominated to fill an emergency vacancy on the U.S. District Court for the Northern District of California. He has served that court as a Magistrate Judge for the last nine years and has accrued an impeccable record of fairness and impartiality. He would have been only the second Asian American to serve as a Federal Judge in the 150-year history of that District. He was also the first Asian American to serve the District as a Magistrate Judge. Judge Chen earned the highest possible rating, unanimously well qualified, from the ABA's Standing Committee on the Federal Judiciary, and he has the strong support of both of his home State Senators.

Jack McConnell was nominated to serve as a Federal district court judge in Rhode Island. With more than 25

years of experience as a lawyer in private practice, Mr. McConnell has the strong support of both Senators from Rhode Island. Individuals and organizations from across the political spectrum in that state have called for Mr. McConnell's confirmation. The Providence

Journal endorsed his nomination by saying that he ''in his legal work and community leadership has shown that he has the legal intelligence, character, compassion, and independence to be a distinguished jurist.'' A two-thirds majority of the Judiciary Committee, including Senator GRAHAM, voted to favorably report Mr. McConnell's nomination for confirmation.

The Senate should also have been able to have a debate and a vote on the nomination of Goodwin Liu of California to the Ninth Circuit Court of Appeals. He is a professor at the University of California, Berkeley, School of Law, and was nominated by President Obama to fill an emergency vacancy on the Ninth Circuit. An acclaimed scholar and a nationally recognized expert on constitutional law and educational law and policy, Professor Liu earned the highest possible rating, unanimously well qualified, from the ABA's Standing Committee on the Federal Judiciary. He is a former Supreme Court clerk and a Rhodes Scholar who would be only the second, active Asian Pacific American judge to serve on a Federal appellate court. Both of Professor Liu's home state Senators support his nomination.

The conservative, Republican-appointed Chief Judge of the Ninth Circuit to which Professor Liu has been nominated has written the Senate to inform us of crushing caseloads and the urgent need for new judges. Justice Anthony Kennedy this August warned the Ninth Circuit Judicial Conference about the threat posed by skyrocketing judicial vacancies in California and throughout the country. He noted that, ''if judicial excellence is cast upon a sea of congressional indifference, the rule of law is imperiled.''

Rather than following a partisan playbook, I wish Republican Senators had listened to the cross-section of people and organizations from across the political spectrum that have written in strong support of Professor Liu's qualifications to serve on the Ninth Circuit. These former prosecutors and judges, presidents of universities, renowned academics, distinguished practitioners, advocacy groups, and district attorneys believe Professor Liu would make an excellent Federal judge. So do I.

I reviewed the record of each of these nominees targeted for Republican opposition and carefully considered their character, background, and qualifications. I believe they each would have been confirmed by the Senate. That they will not be conservative activist judges should not disqualify them from consideration by the Senate or from serving on the Federal bench.

In addition to these nominees, there has been a destructive tact in which Senate Republicans have systematically delayed votes on consensus nominations. The length of time nominations were stalled before a final Senate vote is the product of that systematic delay. The fact is that nominations have taken on average six times as long before final Senate consideration after being reported from the Judiciary Committee, when comparing the confirmations in the first two years of the Bush and Obama administrations. Several consensus nominations that were eventually confirmed unanimously required cloture petitions to be filed just to be considered. Other evidence is the fact that more than a dozen consensus judicial nominations that have been through the entire process are being denied a final vote as the Senate adjourns. I know of no precedent for this. Indeed, in the lame duck session at the end of President Bush's second year in office, we proceeded to report and confirm controversial circuit court nominees. That the Senate is not being allowed to consider consensus nominees awaiting a final vote is a shame and an unnecessary burden on them and their families and for the courts and people they would serve.

It is a travesty that all of the well-qualified nominees favorably reported by the Judiciary Committee could not be confirmed before this Congress adjourns. That is what we did when we confirmed 100 judicial nominees of President Bush in 2001 and 2002. All 100 of the nominees reported favorably by the Judiciary Committee received Senate votes and were confirmed, all 100. They include 20 during the lameduck session that year and circuit court nominees reported after the election. This year even consensus nominees are not being allowed to be considered.

When the Senate returns for the 112th Congress I hope that all Senators will learn from the mounting judicial vacancies and failure to make progress in this Congress. I hope that we can follow a path toward restoring the Senate's longstanding traditions of expeditiously considering nominations and reject the obstruction that blocked progress. We must do better to address the needs of the Federal courts and the American people who depend on them for justice.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

ORDER FOR ADJOURNMENT SINE DIE

Mr. BAYH. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn sine die under the provisions of H. Con. Res. 336.

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

ORDERS FOR WEDNESDAY, JANUARY 5, 2011

Mr. BAYH. Madam President, I further ask unanimous consent that when the Senate returns on Wednesday, January 5, at 12 noon, following the prayer and pledge and following the presentation of the certificates of election and the swearing in of elected Members, and the required live quorum, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that there then be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

PROGRAM

Mr. BAYH. Madam President, there will be a live quorum at 12 noon on Wednesday, January 5, to convene the 112th Congress. Senators are encouraged to report to the floor at that time.

ADJOURNMENT SINE DIE

Mr. BAYH. Madam President, if there is no further business to come before the Senate—let me say it has been a pleasure serving with you—I wish everyone here Godspeed and a Merry Christmas, and I ask unanimous consent that the Senate adjourn under the previous order.

There being no objection, the Senate, at 8:03 p.m., adjourned sine die.

NOMINATIONS

Executive nomination received by the Senate:

NATIONAL COUNCIL ON THE ARTS

AGNES GUND, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS.

NOMINATIONS RETURNED TO THE PRESIDENT

The following nominations transmitted by the President of the United States to the Senate during the second session of the 111th Congress, and upon which no action was had at the time of the sine die adjournment of the Senate, failed of confirmation under the provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

JONATHAN ANDREW HATFIELD, OF VIRGINIA, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

RICHARD CHRISTMAN, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 6, 2012.

JANE D. HARTLEY, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2014.

MARGUERITE W. KONDRACKE, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING JUNE 10, 2014.

MATTHEW FRANCIS MCCABE, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2013.

JOHN D. PODESTA, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THEBOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2014.

LISA M. QUIROZ, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING FEBRUARY 8, 2014.

PHYLLIS NICHAMOFF SEGAL, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2013.

DEPARTMENT OF AGRICULTURE

EVAN J. SEGAL, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

ELIZABETH ANN HAGEN, OF VIRGINIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF COMMERCE

ERIC L. HIRSCHHORN, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION.

FRANCISCO J. SANCHEZ, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ERIC L. HIRSCHHORN, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

KATHRYN D. SULLIVAN, OF OHIO, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF DEFENSE

SOLOMON B. WATSON IV, OF NEW YORK, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY.

JO ANN ROONEY, OF MASSACHUSETTS, TO BE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.

MICHAEL VICKERS, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE.

DEPARTMENT OF ENERGY

PETER BRUCE LYONS, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF ENERGY (NUCLEAR ENERGY).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD SORIAN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DONALD M. BERWICK, OF MASSACHUSETTS, TO BE ADMINISTRATOR OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES.

RICHARD SORIAN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF HOMELAND SECURITY

RAFAEL BORRAS, OF MARYLAND, TO BE UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY.

RAFAEL BORRAS, OF MARYLAND, TO BE UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ALAN D. BERSIN, OF CALIFORNIA, TO BE COMMISSIONER OF CUSTOMS, DEPARTMENT OF HOMELAND SECURITY.

DEPARTMENT OF JUSTICE

THOMAS GRAY WALKER, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS.

JOHN B. STEVENS, JR., OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

JAMES MICHAEL COLE, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ATTORNEY GENERAL.

M. SCOTT BOWEN, OF MICHIGAN, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS.

TIMOTHY J. FEIGHERY, OF NEW YORK, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2012.

ANDREW L. TRAVER, OF ILLINOIS, TO BE DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

S. AMANDA MARSHALL, OF OREGON, TO BE UNITED STATES ATTORNEY FOR THEDISTRICT OF OREGON FOR THE TERM OF FOUR YEARS.

ESTEBAN SOTO III, OF MARYLAND, TO BE UNITED STATES MARSHAL FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS.

DENISE ELLEN O'DONNELL, OF NEW YORK, TO BE DIRECTOR OF THE BUREAU OF JUSTICE ASSISTANCE.

DEPARTMENT OF LABOR

PAUL M. TIAO, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF LABOR.

LEON RODRIGUEZ, OF MARYLAND, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR.

DEPARTMENT OF STATE

MARI CARMEN APONTE, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

ROBERT STEPHEN FORD, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

MATTHEW J. BRYZA, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AZERBAIJAN.

SUZAN D. JOHNSON COOK, OF NEW YORK, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.

NORMAN L. EISEN, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

LARRY LEON PALMER, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE BOLIVARIAN REPUBLIC OF VENEZUELA.

FRANCIS JOSEPH RICCIARDONE, JR., OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

MARI CARMEN APONTE, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GEORGE ALBERT KROL, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UZBEKISTAN.

KURT WALTER TONG, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES SENIOR OFFICIAL FOR THE ASIA-PACIFIC ECONOMIC COOPERATION (APEC) FORUM.

SUE KATHRINE BROWN, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONTENEGRO.

PAMELA L. SPRATLEN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

DAVID LEE CARDEN, OF NEW YORK, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

DANIEL L. SHIELDS III, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

JOSEPH M. TORSELLA, OF PENNSYLVANIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

JOSEPH M. TORSELLA, OF PENNSYLVANIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U. N. MANAGEMENT AND REFORM.

DAVID BRUCE SHEAR, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

NILS MAARTEN PARIN DAULAIRE, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES ON THE EXECUTIVE BOARD OF THE WORLD HEALTH ORGANIZATION.

DEPARTMENT OF THE INTERIOR

DANIEL M. ASHE, OF MARYLAND, TO BE DIRECTOR OF THE UNITED STATES FISH AND WILDLIFE SERVICE.

DEPARTMENT OF THE TREASURY

MICHAEL F. MUNDACA, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

MICHAEL F. MUNDACA, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSOF THE SENATE.

TIMOTHY CHARLES SCHEVE, OF PENNSYLVANIA, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2010.

TIMOTHY CHARLES SCHEVE, OF PENNSYLVANIA, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2015.

JEFFREY ALAN GOLDSTEIN, OF NEW YORK, TO BE AN UNDER SECRETARY OF THE TREASURY.

DEPARTMENT OF TRANSPORTATION

ANN D. BEGEMAN, OF VIRGINIA, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2015.

ELECTION ASSISTANCE COMMISSION

THOMAS HICKS, OF VIRGINIA, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM EXPIRING DECEMBER 12, 2013.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CHAI RACHEL FELDBLUM, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2013, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JACQUELINE A. BERRIEN, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2014, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 2010, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

P. DAVID LOPEZ, OF ARIZONA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF FOUR YEARS, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

MICHAEL W. PUNKE, OF MONTANA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

ISLAM A. SIDDIQUI, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

PHILIP E. COYLE, III, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

MICHAEL W. PUNKE, OF MONTANA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ISLAM A. SIDDIQUI, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

PHILIP E. COYLE, III, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FARM CREDIT ADMINISTRATION

JILL LONG THOMPSON, OF INDIANA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL HOUSING FINANCE AGENCY

JOSEPH A. SMITH, JR., OF NORTH CAROLINA, TO BE DIRECTOR OF THE FEDERAL HOUSING FINANCE AGENCY FOR A TERM OF FIVE YEARS.

FEDERAL MARITIME COMMISSION

MARIO CORDERO, OF CALIFORNIA, TO BE A FEDERAL MARITIME COMMISSIONERFOR THE TERM EXPIRING JUNE 30, 2014.

REBECCA F. DYE, OF NORTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2015.

FEDERAL RESERVE SYSTEM

PETER A. DIAMOND, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2000.

GOVERNMENT PRINTING OFFICE

WILLIAM J. BOARMAN, OF MARYLAND, TO BE PUBLIC PRINTER.

MARINE MAMMAL COMMISSION

FRANCES M.D. GULLAND, OF CALIFORNIA, TO BE A MEMBER OF THE MARINE MAMMAL COMMISSION FOR A TERM EXPIRING MAY 13, 2012.

NATIONAL BOARD FOR EDUCATION SCIENCES

BEVERLY L. HALL, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING MARCH 15, 2012.

ANTHONY BRYK, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2015.

NATIONAL COUNCIL ON DISABILITY

PAMELA YOUNG-HOLMES, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 17, 2010.

JANICE LEHRER-STEIN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2013.

CLYDE E. TERRY, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2013.

NATIONAL COUNCIL ON THE ARTS

AGNES GUND, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PAULA BARKER DUFFY, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

MARTHA WAGNER WEINBERG, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

ALBERT J. BEVERIDGE III, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

CONSTANCE M. CARROLL, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

CATHY M. DAVIDSON, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

AARON PAUL DWORKIN, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2014.

NATIONAL LABOR RELATIONS BOARD

CRAIG BECKER, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2014, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MARK GASTON PEARCE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2013, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL MEDIATION BOARD

THOMAS M. BECK, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2013.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SCOTT C. DONEY, OF MASSACHUSETTS, TO BE CHIEF SCIENTIST OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

NATIONAL SCIENCE FOUNDATION

CORA B. MARRETT, OF WISCONSIN, TO BE DEPUTY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION.

KELVIN K. DROEGEMEIER, OF OKLAHOMA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2016.

OFFICE OF SPECIAL COUNSEL

CAROLYN N. LERNER, OF MARYLAND, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF FIVE YEARS.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

STEPHANIE O'SULLIVAN, OF VIRGINIA, TO BE PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE.

OVERSEAS PRIVATE INVESTMENT CORPORATION

KATHERINE M. GEHL, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2010.

MATTHEW MAXWELL TAYLOR KENNEDY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2012.

ROBERTO R. HERENCIA, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2012.

JAMES A. TORREY, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2010.

JAMES A. TORREY, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2013.

TERRY LEWIS, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011.

PENSION BENEFIT GUARANTY CORPORATION

JOSHUA GOTBAUM, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

ELISEBETH COLLINS COOK, OF ILLINOIS, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2014.

JAMES XAVIER DEMPSEY, OF CALIFORNIA, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2016.

SMALL BUSINESS ADMINISTRATION

WINSLOW LORENZO SARGEANT, OF WISCONSIN, TO BE CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION.

WINSLOW LORENZO SARGEANT, OF WISCONSIN, TO BE CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

STATE JUSTICE INSTITUTE

WILFREDO MARTINEZ, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2010.

THE JUDICIARY

AMY TOTENBERG, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

EDWARD CARROLL DUMONT, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

PAUL KINLOCH HOLMES, III, OF ARKANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS.

SUSAN L. CARNEY, OF CONNECTICUT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

ANTHONY J. BATTAGLIA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

EDWARD J. DAVILA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

JAMES E. SHADID, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

MAX OLIVER COGBURN, JR., OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA.

JAMES E. GRAVES, JR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

JAMES EMANUEL BOASBERG, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

AMY BERMAN JACKSON, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

VICTORIA FRANCES NOURSE, OF WISCONSIN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT.

MARCO A. HERNANDEZ, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON.

STEVE C. JONES, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

SUE E. MYERSCOUGH, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

DIANA SALDANA, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

MICHAEL H. SIMON, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON.

CHARLES BERNARD DAY, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

KATHLEEN M. WILLIAMS, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

MARINA GARCIA MARMOLEJO, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

ROBERT NEIL CHATIGNY, OF CONNECTICUT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

GOODWIN LIU, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

LOUIS B. BUTLER, JR., OF WISCONSIN, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WISCONSIN.

EDWARD MILTON CHEN, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

JOHN J. MCCONNELL, JR., OF RHODE ISLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND.

CAITLIN JOAN HALLIGAN, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

JIMMIE V. REYNA, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

RICHARD BROOKE JACKSON, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

MAE A. D'AGOSTINO, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK.

CATHY BISSOON, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

VINCENT L. BRICCETTI, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

ROY BALE DALTON, JR., OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

SARA LYNN DARROW, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

JOHN A. KRONSTADT, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

KEVIN HUNTER SHARP, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE.

BERNICE BOUIE DONALD, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

ARENDA L. WRIGHT ALLEN, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA.

MICHAEL FRANCIS URBANSKI, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA.

CLAIRE C. CECCHI, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

ESTHER SALAS, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

MARK RAYMOND HORNAK, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

ROBERT DAVID MARIANI, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

JOHN ANDREW ROSS, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

ERIC G. POSTEL, OF WISCONSIN, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

UNITED STATES INSTITUTE OF PEACE

JUDITH A. ANSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 19, 2011.

JUDITH A. ANSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM OF FOUR YEARS.

JOHN A. LANCASTER, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 19, 2011.

JOHN A. LANCASTER, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM OF FOUR YEARS.

UNITED STATES TAX COURT

JUAN F. VASQUEZ, OF TEXAS, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS.

MAURICE B. FOLEY, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS.

IN THE AIR FORCE

AIR FORCE NOMINATION OF BRIGADIER GENERAL RICHARD T. DEVEREAUX, TO BE MAJOR GENERAL.

AIR FORCE NOMINATION OF MAJ. GEN. ROBIN RAND, TO BE LIEUTENANT GENERAL.

AIR FORCE NOMINATIONS BEGINNING WITH BRIGADIER GENERAL WILLIAM R. BURKS AND ENDING WITH COLONEL ARTHUR W. HYATT, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2010.

AIR FORCE NOMINATION OF COL. DONALD P. DUNBAR, TO BE BRIGADIER GENERAL.

AIR FORCE NOMINATION OF MAJ. GEN. JOHN D. LAVELLE, TO BE GENERAL.

IN THE ARMY

ARMY NOMINATION OF COLONEL JODY J. DANIELS, TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF COLONEL DOMINIC J. CARACCILO, TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF BRIG. GEN. RODNEY J. BARHAM, TO BE MAJOR GENERAL.

ARMY NOMINATION OF COLONEL DENISE T. ROONEY, TO BE BRIGADIER GENERAL.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATION OF MICHAEL S. DEVANY, TO BE REAR ADMIRAL (LOWER HALF).

IN THE NAVY

NAVY NOMINATION OF CAPTAIN LUKE M. MCCOLLUM, TO BE REAR ADMIRAL (LOWER HALF).

NAVY NOMINATION OF REAR ADM. (LH) JAMES P. MCMANAMON, TO BE REAR ADMIRAL.

IN THE AIR FORCE

AIR FORCE NOMINATION OF DAVID JAURIQUE, TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH DAVID LEWIS BUTTRICK AND ENDING WITH THEADORE L. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH MARTIN D. ADAMSON AND ENDING WITH JOHN MARION VON ALMEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATION OF BARBARA J. MARTIN.

FOREIGN SERVICE NOMINATION OF R. DOUGLASS ARBUCKLE.

FOREIGN SERVICE NOMINATION OF HUSSAIN WAHEED IMAM.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WITH JOE H. ADKINS, JR. AND ENDING WITH JAMES B. ZIENTEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

CONFIRMATIONS

Executive nominations confirmed by the Senate, December 22, 2010:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JACQUELINE A. BERRIEN, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2014.

CHAI RACHEL FELDBLUM, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2013.

P. DAVID LOPEZ, OF ARIZONA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF FOUR YEARS.

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 2010.

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2015.

THE JUDICIARY

SCOTT M. MATHESON, JR., OF UTAH, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT.

DEPARTMENT OF DEFENSE

JONATHAN WOODSON, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE JUDICIARY

MARY HELEN MURGUIA, OF ARIZONA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

KATHLEEN M. O'MALLEY, OF OHIO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

BERYL ALAINE HOWELL, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

ROBERT LEON WILKINS, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

STATE JUSTICE INSTITUTE

WILFREDO MARTINEZ, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2013.

CHASE THEODORA ROGERS, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2012.

ISABEL FRAMER, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2012.

GOVERNMENT ACCOUNTABILITY OFFICE

EUGENE LOUIS DODARO, OF VIRGINIA, TO BE COMPTROLLER GENERAL OF THE UNITED STATES FOR A TERM OF FIFTEEN YEARS.

MISSISSIPPI RIVER COMMISSION

SAMUEL EPSTEIN ANGEL, OF ARKANSAS, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION FOR A TERM OF NINE YEARS.

DEPARTMENT OF JUSTICE

MICHELE MARIE LEONHART, OF CALIFORNIA, TO BE ADMINISTRATOR OF DRUG ENFORCEMENT.

STACIA A. HYLTON, OF VIRGINIA, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE. VICE JOHN F. CLARK, RESIGNED.

NATIONAL BOARD FOR EDUCATION SCIENCES

ROBERT ANACLETUS UNDERWOOD, OF GUAM, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012.

ANTHONY BRYK, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2011.

KRIS D. GUTIERREZ, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012.

DEPARTMENT OF EDUCATION

SEAN P. BUCKLEY, OF NEW YORK, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2015.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

SUSAN H. HILDRETH, OF WASHINGTON, TO BE DIRECTOR OF THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ALLISON BLAKELY, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

UNITED STATES SENTENCING COMMISSION

PATTI B. SARIS, OF MASSACHUSETTS, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2015.

DABNEY LANGHORNE FRIEDRICH, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2015.

PATTI B. SARIS, OF MASSACHUSETTS, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION.

OVERSEAS PRIVATE INVESTMENT CORPORATION

KEVIN GLENN NEALER, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011.

DEPARTMENT OF STATE

CAROL FULP, OF MASSACHUSETTS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JEANNE SHAHEEN, OF NEW HAMPSHIRE, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ROGER F. WICKER, OF MISSISSIPPI, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

GREGORY J. NICKELS, OF WASHINGTON, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

WILLIAM R. BROWNFIELD, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS).

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

PAIGE EVE ALEXANDER, OF GEORGIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

MILLENNIUM CHALLENGE CORPORATION

MARK GREEN, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE MILLENNIUM CHALLENGE CORPORATION FOR A TERM OF THREE YEARS.

DEPARTMENT OF STATE

THOMAS R. NIDES, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY SECRETARY OF STATE FOR MANAGEMENT AND RESOURCES.

MILLENNIUM CHALLENGE CORPORATION

ALAN J. PATRICOF, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE MILLENNIUM CHALLENGE CORPORATION FOR A TERM OF TWO YEARS.

DEPARTMENT OF AGRICULTURE

RAMONA EMILIA ROMERO, OF PENNSYLVANIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE.

SOCIAL SECURITY ADMINISTRATION

CAROLYN W. COLVIN, OF MARYLAND, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPIRING JANUARY 19, 2013.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. OTIS G. MANNON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. RICHARD T. DEVEREAUX

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CHARLES R. DAVIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. MICHELLE D. JOHNSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. BRETT T. WILLIAMS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. JAMES M. HOLMES

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be brigadier general

COL. WAYNE E. LEE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. TIMOTHY T. JEX

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL DONALD J. BACON
COLONEL WARREN D. BERRY
COLONEL CASEY D. BLAKE
COLONEL MARK ANTHONY BROWN
COLONEL STEPHEN A. CLARK
COLONEL ANTHONY J. COTTON
COLONEL THOMAS H. DEALE
COLONEL STEPHEN T. DENKER
COLONEL JOHN L. DOLAN
COLONEL MICHAEL E. FORTNEY
COLONEL PETER E. GERSTEN
COLONEL ROBERT P. GIVENS
COLONEL THOMAS F. GOULD
COLONEL TIMOTHY S. GREEN
COLONEL GINA M. GROSSO
COLONEL JOSEPH T. GUASTELLA, JR.
COLONEL DAVID A. HARRIS
COLONEL DARYL J. HAUCK
COLONEL JOHN M. HICKS
COLONEL JOHN P. HORNER
COLONEL CHARLES K. HYDE
COLONEL PATRICK C. MALACKOWSKI
COLONEL JAMES R. MARRS
COLONEL LAWRENCE M. MARTIN, JR.
COLONEL JEFFREY R. MCDANIELS
COLONEL MARK M. MCLEOD
COLONEL JOHN K. MCMULLEN
COLONEL LINDA R. MEDLER
COLONEL MATTHEW H. MOLLOY
COLONEL MICHAEL T. PLEHN
COLONEL MARGARET B. POORE
COLONEL THOMAS J. SHARPY
COLONEL BRADFORD J. SHWEDO
COLONEL RICHARD S. STAPP
COLONEL DAVID R. STILWELL
COLONEL ROGER W. TEAGUE
COLONEL DAVID C. UHRICH
COLONEL ROGER H. WATKINS
COLONEL MARK W. WESTERGREN
COLONEL SCOTT J. ZOBRIST

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL THOMAS P. HARWOOD III
BRIGADIER GENERAL ROBERT K. MILLMANN, JR.
BRIGADIER GENERAL WILLIAM F. SCHAUFFERT
BRIGADIER GENERAL MICHAEL N. WILSON
BRIGADIER GENERAL JOHN T. WINTERS, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL RANDALL C. GUTHRIE
COLONEL NORMAN R. HAM, JR.
COLONEL RONALD B. MILLER
COLONEL JOHN J. MOONEY III
COLONEL DAVID B. O'BRIEN
COLONEL RICHARD W. SCOBEE
COLONEL JOCELYN M. SENG
COLONEL WILLIAM B. WALDROP, JR.
COLONEL TOMMY J. WILLIAMS
COLONEL EDWARD P. YARISH
COLONEL SHEILA ZUEHLKE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be major general

BRIGADIER GENERAL FRANCES M. AUCLAIR
BRIGADIER GENERAL BARRY K. COLN
BRIGADIER GENERAL JEFFREY R. JOHNSON
BRIGADIER GENERAL MARY J. KIGHT
BRIGADIER GENERAL THOMAS R. MOORE
BRIGADIER GENERAL JOHN F. NICHOLS
BRIGADIER GENERAL LEON S. RICE
BRIGADIER GENERAL GARY L. SAYLER
BRIGADIER GENERAL SCOTT B. SCHOFIELD
BRIGADIER GENERAL JONATHAN T. TREACY
BRIGADIER GENERAL DELILAH R. WORKS

To be brigadier general

COLONEL STEVEN P. BULLARD
COLONEL MICHAEL B. COMPTON
COLONEL MURRAY A. HANSEN
COLONEL JEFFREY W. HAUSER
COLONEL WILLIAM O. HILL
COLONEL JEROME P. LIMOGE, JR.
COLONEL DONALD A. MCGREGOR
COLONEL TONY E. MCMILLIAN
COLONEL GREGORY L. NELSON
COLONEL GARY L. NOLAN
COLONEL MICHAEL E. STENCEL
COLONEL RICHARD G. TURNER
COLONEL WILLIAM L. WELSH
COLONEL DANIEL J. ZACHMAN

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JON J. MILLER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT M. BROWN

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be brigadier general

COL. BENJAMIN F. ADAMS III

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL DOUGLAS P. ANSON
BRIGADIER GENERAL ROBERT G. CATALANOTTI
BRIGADIER GENERAL GREGORY E. COUCH
BRIGADIER GENERAL DAVID S. ELMO
BRIGADIER GENERAL JEFFERY E. PHILLIPS
BRIGADIER GENERAL ROBERT P. STALL
BRIGADIER GENERAL WILLIAM D. WAFF

To be brigadier general

COLONEL DANIEL R. AMMERMAN
COLONEL EDWARD G. BURLEY
COLONEL WILLIAM F. DUFFY
COLONEL PATRICK J. REINERT
COLONEL DOUGLAS R. SATTERFIELD
COLONEL JOHN H. TURNER III
COLONEL HUGH C. VANROOSEN II
COLONEL RICKY L. WADDELL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. CARTER F. HAM

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be brigadier general

COL. BRIAN K. BALFE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL BRADLEY A. BECKER
COLONEL SCOTT D. BERRIER
COLONEL MICHAEL A. BILLS
COLONEL GWENDOLYN BINGHAM
COLONEL DAVID J. BISHOP
COLONEL MATTHEW L. BRAND
COLONEL JAMES B. BURTON
COLONEL JOHN W. CHARLTON
COLONEL GUY T. COSENTINO
COLONEL JAMES H. DICKINSON
COLONEL TIMOTHY J. EDENS
COLONEL CHARLES A. FLYNN
COLONEL GEORGE J. FRANZ III
COLONEL THEODORE C. HARRISON
COLONEL FREDERICK A. HENRY
COLONEL TERENCE J. HILDNER
COLONEL HENRY L. HUNTLEY
COLONEL PAUL C. HURLEY, JR.
COLONEL MARK S. INCH
COLONEL FERDINAND IRIZARRY II
COLONEL THOMAS S. JAMES, JR.
COLONEL OLE A. KNUDSON
COLONEL THOMAS W. KULA
COLONEL CLARK W. LEMASTERS, JR.
COLONEL THEODORE D. MARTIN
COLONEL BRIAN J. MCKIERNAN
COLONEL ROBIN L. MEALER
COLONEL JOHN B. MORRISON, JR.
COLONEL SEAN P. MULHOLLAND
COLONEL KEVIN G. O'CONNELL
COLONEL BARRYE L. PRICE
COLONEL MARK R. QUANTOCK
COLONEL JAMES M. RICHARDSON
COLONEL DARSIE D. ROGERS, JR.
COLONEL MARTIN P. SCHWEITZER
COLONEL JEFFREY A. SINCLAIR
COLONEL RICHARD L. STEVENS
COLONEL PETER D. UTLEY
COLONEL GARY J. VOLESKY
COLONEL KIRK F. VOLLMECKE
COLONEL DARRYL A. WILLIAMS
COLONEL MICHAEL E. WILLIAMSON
COLONEL CEDRIC T. WINS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. MICHAEL D. BARBERO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL FERRITER

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIG. GEN. MANUEL ORTIZ, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT B. ABRAMS
BRIGADIER GENERAL ALLISON T. AYCOCK
BRIGADIER GENERAL PETER C. BAYER, JR.
BRIGADIER GENERAL JAMES C. BOOZER, SR.
BRIGADIER GENERAL JEFFREY S. BUCHANAN
BRIGADIER GENERAL GARY H. CHEEK
BRIGADIER GENERAL KENDALL P. COX
BRIGADIER GENERAL WILLIAM T. CROSBY
BRIGADIER GENERAL ANTHONY G. CRUTCHFIELD
BRIGADIER GENERAL PETER N. FULLER
BRIGADIER GENERAL WILLIAM K. FULLER
BRIGADIER GENERAL WALTER M. GOLDEN, JR.
BRIGADIER GENERAL PATRICK M. HIGGINS
BRIGADIER GENERAL FREDERICK B. HODGES
BRIGADIER GENERAL ANTHONY R. IERARDI
BRIGADIER GENERAL RICHARD C. LONGO
BRIGADIER GENERAL ALAN R. LYNN
BRIGADIER GENERAL DAVID L. MANN
BRIGADIER GENERAL BRADLEY W. MAY
BRIGADIER GENERAL LLOYD MILES
BRIGADIER GENERAL MARK A. MILLEY
BRIGADIER GENERAL JENNIFER L. NAPPER
BRIGADIER GENERAL JOHN W. NICHOLSON, JR.
BRIGADIER GENERAL RAYMOND P. PALUMBO
BRIGADIER GENERAL GARY S. PATTON
BRIGADIER GENERAL MARK W. PERRIN
BRIGADIER GENERAL WILLIAM E. RAPP
BRIGADIER GENERAL THOMAS J. RICHARDSON
BRIGADIER GENERAL FREDERICK S. RUDESHEIM
BRIGADIER GENERAL BENNET S. SACOLICK
BRIGADIER GENERAL FRANK D. TURNER III
BRIGADIER GENERAL KEVIN R. WENDEL
BRIGADIER GENERAL LARRY D. WYCHE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. JEFFREY L. BAILEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. CURT A. RAUHUT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624, 3037, AND 3064:

To be brigadier general, judge advocate general's corps

COL. FLORA D. DARPINO

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL JOSEPH L. CULVER
BRIGADIER GENERAL FRANCIS P. GONZALES
BRIGADIER GENERAL DAVID L. HARRIS
BRIGADIER GENERAL JAMES R. JOSEPH
BRIGADIER GENERAL JEFF W. MATHIS III
BRIGADIER GENERAL HENRY C. MCCANN
BRIGADIER GENERAL STEVEN N. WICKSTROM

To be brigadier general

COLONEL JAMES A. ADKINS
COLONEL DEBORAH A. ASHENHURST
COLONEL ELIZABETH D. AUSTIN
COLONEL LINDA C. BODE
COLONEL DARLENE M. GOFF
COLONEL SCOTT A. GRONEWOLD
COLONEL BRIAN C. HARRIS
COLONEL JAMES M. HARRIS
COLONEL SAMUEL L. HENRY
COLONEL JAY J. HOOPER
COLONEL KEITH E. KNOWLTON
COLONEL FRANCIS S. LAUDANO III
COLONEL RUSTY L. LINGENFELTER
COLONEL JUDD H. LYONS
COLONEL EUGENE L. MASCOLO
COLONEL MICHAEL W. MCHENRY
COLONEL KEVIN L. MCNEELY
COLONEL GLEN E. MOORE
COLONEL OLIVER L. NORRELL III
COLONEL WILLIAM J. O'NEILL
COLONEL VICTOR S. PEREZ
COLONEL HARVE T. ROMINE
COLONEL JOANNE F. SHERIDAN
COLONEL PAUL G. SMITH
COLONEL PETER C. VANAMBURGH
COLONEL KATHY J. WRIGHT

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL RICKY G. ADAMS
BRIGADIER GENERAL BARBARANETTE T. BOLDEN
BRIGADIER GENERAL GLENN H. CURTIS
BRIGADIER GENERAL STEPHEN C. DABADIE
BRIGADIER GENERAL JONATHAN E. FARNHAM
BRIGADIER GENERAL LEODIS T. JENNINGS
BRIGADIER GENERAL SCOTT W. JOHNSON

To be brigadier general

COLONEL DOMINIC D. ARCHIBALD
COLONEL ARTHUR G. AUSTIN, JR.
COLONEL CRAIG A. BARGFREDE
COLONEL COURTNEY P. CARR
COLONEL JOEL D. CUSKER
COLONEL PATRICK J. DOLAN
COLONEL DAVID A. GALLOWAY
COLONEL SCOTT F. GEDLING
COLONEL KEVIN S. GERDES
COLONEL JUAN L. GRIEGO
COLONEL RALPH H. GROOVER III
COLONEL STEPHEN R. HOGAN
COLONEL DANIEL R. HOKANSON
COLONEL GARY E. HUFFMAN
COLONEL RUTH A. IRWIN
COLONEL STEPHEN E. JOYCE
COLONEL RICHARD F. KEENE
COLONEL TERRY A. LAMBERT
COLONEL DANIEL B. LEATHERMAN
COLONEL ELTON LEWIS
COLONEL TIMOTHY M. MCKEITHEN
COLONEL PAUL J. PENA
COLONEL MATTHEW T. QUINN
COLONEL MARK A. RUSSO
COLONEL ORLANDO SALINAS
COLONEL BRYAN L. SAUCERMAN
COLONEL MICHAEL D. SCHWARTZ
COLONEL TIMOTHY L. SHEPPARD
COLONEL REX A. SPITLER
COLONEL DONALD B. TATUM
COLONEL JAMES E. TAYLOR

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. HOWARD B. BROMBERG

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL GREGORY W. BATTS
BRIGADIER GENERAL BRENT M. BOYLES
BRIGADIER GENERAL JEFFERSON S. BURTON
BRIGADIER GENERAL LAWRENCE E. DUDNEY, JR.
BRIGADIER GENERAL BURTON K. FRANCISCO
BRIGADIER GENERAL CHARLES H. GAILES, JR.
BRIGADIER GENERAL GARY M. HARA
BRIGADIER GENERAL TIMOTHY J. KADAVY
BRIGADIER GENERAL PATRICK A. MURPHY
BRIGADIER GENERAL TIMOTHY E. ORR
BRIGADIER GENERAL DAVID C. PETERSEN

To be brigadier general

COLONEL JERRY R. ACTON, JR.
COLONEL DALLEN S. ATACK
COLONEL JAMES P. BEGLEY III
COLONEL ALAN J. BUTSON
COLONEL WALTER E. FOUNTAIN
COLONEL RICHARD J. GALLANT
COLONEL ALBERTO C. GONZALEZ
COLONEL JOHNNY H. ISAAK
COLONEL GREGORY L. KENNEDY
COLONEL ARTHUR J. LOGAN
COLONEL NEAL G. LOIDOLT
COLONEL JEFFREY P. MARLETTE
COLONEL TED MARTINELL
COLONEL EDWARD R. MORGAN
COLONEL MICHAEL D. NAVRKAL
COLONEL LEESA J. PAPIER
COLONEL KENNETH L. REINER
COLONEL SEAN A. RYAN
COLONEL KENNETH A. SANCHEZ
COLONEL STEVEN T. SCOTT
COLONEL WILLIAM L. STOPPEL
COLONEL LEE E. TAFANELLI
COLONEL KEITH Y. TAMASHIRO
COLONEL GUY E. THOMAS
COLONEL NEIL H. TOLLEY
COLONEL DAVID S. VISSER
COLONEL MARIANNE E. WATSON
COLONEL MARTHA N. WONG
COLONEL ANTHONY WOODS

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. THOMAS E. BEEMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. GERALD R. BEAMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 156:

To be rear admiral (lower half)

CAPT. JAMES W. CRAWFORD III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. RICHARD W. HUNT

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL KENNETH F. MCKENZIE, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN M. PAXTON, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KENNETH J. GLUECK, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT E. MILSTEAD, JR.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH BRIAN F. ABELL AND ENDING WITH RAY A. ZUNIGA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 2010.

AIR FORCE NOMINATION OF JOSEPH T. FETSCH, TO BE COLONEL.

AIR FORCE NOMINATION OF SUZANNE M. HENDERSON, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH CHARLES R. CORNELISSE AND ENDING WITH GERALD D. MCMANUS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH ENEYA H. MULAGHA AND ENDING WITH CLAUDIA P. ZIMMERMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH LENA R. HASKELL AND ENDING WITH WILLIAM A. SOBLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH RANDON H. DRAPER AND ENDING WITH ANDREW S. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH JANELLE E. COSTA AND ENDING WITH JEROME E. WIZDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH WILLIAM J. ANNEXSTAD AND ENDING WITH STACEY J. VETTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH RYAN J. ALBRECHT AND ENDING WITH GABRIEL MATTHEW YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATION OF PAUL L. SHEROUSE, TO BE COLONEL.

AIR FORCE NOMINATION OF GABRIEL C. AVILLA, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH NATHAN P. CHRISTENSEN AND ENDING WITH SARA A. WHITTINGHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH JESSICA L. ABBOTT AND ENDING WITH ANDREW J. WYNN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH EDWARD R. ANDERSON III AND ENDING WITH DAVID H. ZONIES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH MICHAEL J. ALFARO AND ENDING WITH SARA M. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH COREY R. ANDERSON AND ENDING WITH SON X. VU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

IN THE ARMY

ARMY NOMINATION OF MICHAEL P. MCGAFFIGAN, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH EDWIN E. AHL AND ENDING WITH D002419, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 20, 2010.

ARMY NOMINATIONS BEGINNING WITH DIANE J. BOESE AND ENDING WITH PHILIP N. WASYLINA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 29, 2010.

ARMY NOMINATION OF ROBERT C. DORMAN, TO BE COLONEL.

ARMY NOMINATION OF DAVID A. NIEMIEC, TO BE MAJOR.

ARMY NOMINATION OF WILLIAM L. VANASSE, TO BE MAJOR.

ARMY NOMINATION OF GEORGE A. CARPENTER, TO BE MAJOR.

ARMY NOMINATION OF SUSAN A. CASTORINA, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH THERESA C. COWGER AND ENDING WITH MARIE N. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH PAULA S. OLIVER AND ENDING WITH GARY D. RIGGS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH JOSEPH C. CARVER AND ENDING WITH GARY L. PAULSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATION OF JOHN E. JOHNSON II, TO BE MAJOR.

ARMY NOMINATION OF ANDREW S. DREIER, TO BE LIEUTENANT COLONEL.

ARMY NOMINATIONS BEGINNING WITH KEVIN D. ELLSON AND ENDING WITH STEVEN J. OLSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH PHILLIP R. GLICK AND ENDING WITH WILLIAM G. SUVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH KEVIN ACOSTA AND ENDING WITH ROBERT K. YIM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH MARY E. ABRAMS AND ENDING WITH D002043, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH TIMOTHY P. ALBERS AND ENDING WITH G001187, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH ELLEN J. ABBOTT AND ENDING WITH MICHAEL W. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH JOHN C. ALLRED AND ENDING WITH D001821, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH JOHN W. AARSEN AND ENDING WITH LOREN T. ZWEIG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH JOHN G. FELTZ AND ENDING WITH LOUIS W. WILHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATION OF KATHLEEN M. FLOCKE, TO BE MAJOR.

ARMY NOMINATION OF GARY A. VROEGINDEWEY, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH CRAIG S. BROOKS AND ENDING WITH BENNIE W. SWINK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WITH BRANDON M. BOLLING AND ENDING WITH WYETH M. TOWLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH PATRICK C. DANIELS AND ENDING WITH THOMAS L. EDLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 29, 2010.

NAVY NOMINATION OF MATTHEW R. FOMBY, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF RONNY L. JACKSON, TO BE CAPTAIN.

NAVY NOMINATION OF FREDERICK G. PANICO, TO BE CAPTAIN.

NAVY NOMINATIONS BEGINNING WITH DANIEL J. TRAUB AND ENDING WITH WAYNE M. BURR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

NAVY NOMINATIONS BEGINNING WITH AUNTOWHAN M. ANDREWS AND ENDING WITH CHRISTOPHER W. WOLFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

NAVY NOMINATIONS BEGINNING WITH MATTHEW A. MCQUEEN AND ENDING WITH CHARLES E. VARSOGEA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

NAVY NOMINATION OF BRIAN L. BEATTY, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF JON C. CANNON, TO BE COMMANDER.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH CONNOR CHERER AND ENDING WITH BERNADETTE REGINA ZIELINSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH HEATHER M. ROGERS AND ENDING WITH STEPHANIE L. WOODARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JOSEPH FARINELLA AND ENDING WITH JOSEPH C. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH PATRICIA A. BUTENIS AND ENDING WITH KEITH A. SWINEHART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 29, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH LOUIS JOHN FINTOR AND ENDING WITH THOMAS F. GRAY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH ALAN HALLMAN AND ENDING WITH RICHARD G. SIMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH LLOYD S. HARBERT AND ENDING WITH DARYL A. BREHM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JAMES FRANKLIN JEFFREY AND ENDING WITH EARL A. WAYNE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

RUSSEL EDWIN BURGER, OF OREGON, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF OREGON FOR THE TERM OF FOUR YEARS.

CHARLES EDWARD ANDREWS, OF ALABAMA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF ALABAMA FOR THE TERM OF FOUR YEARS.

CHRISTOPHER R. THYER, OF ARKANSAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS.