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Senate

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

PRAYER

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

Let us pray.

Gracious God, Ruler of all nature, protect our Senators from the seductive influences of power and prestige. Today, deliver them from the delusion of self-importance which their position and status subtly nurture. Remind them of the example of the greatest man who ever lived. He said: ''Those who would be greatest must be servants of all.'' In disagreement and confrontation, help them to respect and esteem each other as they struggle together for the resolution of complex issues. Lord, give them the humility to know that no one has a monopoly on Your truth and that all need each other to discover Your guidance together.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 23, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period for the transaction of morning business. Senators will be allowed to speak for up to 10 minutes each. Republicans will control the first 30 minutes and the majority will control the next 30 minutes. The Senate will be in recess from 12:30 p.m. to 2:15 p.m. today to allow for weekly caucus luncheons. We will continue to work on an agreement to consider the legislative appropriations bill today. Senators could expect votes in relation to that bill during today's session.

MAKING TECHNICAL CORRECTIONS TO THE HIGHER EDUCATION ACT OF 1965

Mr. REID. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 1777.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1777) to make technical corrections to the Higher Education Act of 1965, and for other purposes.

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

Mr. ENZI. Mr. President, I rise to speak in support of this bill and our need to make important technical corrections to the Higher Education Opportunity Act. I thank Senator KENNEDY for his willingness to approach this bill in a bipartisan manner, I always believe that working together we produce a better policy.

Any time this body considers a bill that has over 1,000 pages, there is bound to be a need to do some ''clean up'' and to correct unintended consequences. Fortunately, we were also provided an opportunity to broaden benefits to the children who have lost a parent in either Iraq or Afghanistan since 2001. It is important that we do all we can to support these individuals whose families have made the ultimate sacrifice for our country. I am appreciative of Senators BURR and ALEXANDER for their leadership in getting this bill done.

A college education is not a luxury in the 21st century economy. It is a necessity. This bill will improve the ability of our student assistance programs to function and meet the needs of institutions of higher education, students and their families.

Mr. REID. Mr. President, I ask unanimous consent that the substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 1364) was agreed to.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

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

The bill (H.R. 1777), as amended, was read the third time and passed.

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

CONDOLENCES TO WASHINGTON METRO CRASH VICTIMS

Mr. REID. Mr. President, before we turn to legislative matters, I wish to express my personal condolences and those of the Senate to the people affected by yesterday's tragedy, and that was a lot of people. That tragedy took place on the Washington Metro system. Nine people were killed and scores more injured yesterday evening as they simply made their way home during rush hour. The accident has shaken this city and this body. Like so many other commuters, many who work on Capitol Hill rely on the Metro system every day. It has been reliable, and it has been safe. My heart goes out to the families who lost loved ones and those who were injured. As we learn more about what caused this terrible accident, we will work to ensure it never happens again.

HEALTH CARE

Mr. REID. Mr. President, this new year began with so much hope. When we began the 111th Congress, I had hoped Republicans would leave their Republican games in the 110th Congress. I had hoped they would have listened when the American people reviewed their record and said no to the party of no.

I wrote the following at the time, this past January:

> We have no choice but to govern differently. The times demand it. If we do not govern differently, we will have taken no good lessons from the bad experience of the Bush years.

That goes for Republicans and Democrats alike.

In my first address to this Chamber this year, I reminded both Republicans and Democrats that when we retreat to partisanship, when we fail to reach for common ground, we rob ourselves of the ability to create the change the American people demanded.

As the health care debate approached in April, I reached out to our Republican colleagues and wrote this:

> Rather than just saying no, you must be willing to offer concrete and constructive proposals. We cannot afford more of the obstructionist tactics that have denied or delayed Congress' efforts to address so many of the critical challenges facing this nation.

Last week, I reminded the other side that our hands remain outstretched across the aisle. I assured them we still save them a seat at the negotiating table. And just yesterday, I encouraged our Republican friends to join with us to pass an important bill that would promote foreign travel to the United States—creating jobs, reducing our deficit, and strengthening our economy in the process. Everyplace in America, there are hotel rooms and motel rooms that are not occupied as they should be. The legislation killed yesterday by the Republicans would have had more people coming to those hotel and motel rooms.

At the beginning of this year, at the beginning of this Congress, at the beginning of this debate, and even up to the beginning of this week, my commitment to bipartisanship and finding common ground has not changed one bit. Unfortunately, a stubborn group of Senate Republicans has not changed either.

Yesterday, Republicans blocked a bill that had 11 Republican cosponsors. I assumed when they sponsored that bill they were in favor of the bill. That is kind of an idea people get around here. They blocked a bill that would support a trillion-dollar industry in an otherwise slow economy. They blocked a bill that would create 40,000 new jobs right here at home over the next year. It would have cut our deficit by $425 million and helped our economy recover.

Perhaps, though, we shouldn't be surprised. Just last week, a Republican Senator said the following:

> Democrats need to know when they bring [bills] up, we're going to extend the debate as long as we can—even if we can't win.

That is what he said.

Given their commitment to obstruction, it is remarkable we have gotten anything done this year, let alone such a strong catalog of important accomplishments that have helped us revive our economy, strengthen our national security, protect our environment, demand accountability, promote equality, and ensure progress. But if Republicans are going to stand in the way of a bill that creates tens of thousands of new jobs, cuts our deficit by hundreds of millions of dollars, and helps every single State in the Union, how are we going to do the other important work the American people sent us here to do? What is it they want to do?

As my good friend from North Dakota, Senator DORGAN, said yesterday on the floor:

> If we can't agree on a piece of legislation that was offered by over 50 Senators, Republicans and Democrats, dealing with promotion of tourism and creating jobs and promoting this country's economic interests by asking international tourists to come to America and see what America is all about—if we can't agree on that, how on Earth will we get agreements on energy, health care, climate change, and so on? It is so disappointing.

I don't know if anyone could put it any better than Senator DORGAN did. I couldn't.

Reforming health care and pursuing energy independence are daunting tasks. No one claims it is simple, but nearly everyone knows it is essential. No one claims the answer is obvious, but everyone knows we must work toward one. Yet, if Republicans refuse to find common ground on the easy things, how will we do so on the hard ones?

It is difficult to understand, but it is clear to anyone following this debate that our Republican friends are not interested in making the difficult but necessary decisions to dig our economy out of this ditch and move us further down the path of recovering prosperity. They have said publicly and privately they are waiting on President Obama's failure. At this point, it has been a bad bet because President Obama is still—today in the press, his popularity is approaching 70 percent.

Instead, they like to echo talking points written by pollsters. They like to repeat the tired, trite, and baseless claim that if we reform health care—85 percent of Americans want us to reform health care, but they are saying that if we improve health care, they will be denied and delayed in getting health care. It is absolutely incomprehensible what their reasoning is. Nothing could be further from the truth.

First, let me state once again the facts. No matter what Republicans claim, the government has no intention of choosing any part of your medical plan. Remember, we are talking a public option, a public choice. The government has no intention of choosing for you any part of your medical plan or meddling in any of your medical relationships. If you like the coverage you have, you can keep it. In fact, it is the name of a whole section of the HELP Committee's bill. Section 131 is called ''No Changes to Existing Coverage.'' That is what the title of the bill section is. Every time you hear Republicans say otherwise, you know they are not interested in an honest debate.

Second, let me reiterate once again the reality. The only thing being delayed is urgently needed reform that ensures all Americans have access to quality, affordable health care. The only thing at risk of being denied is Americans' ability to stay healthy, get healthy, or care for a loved one. It is being delayed by a party that has made such stalling tactics their speciality, as evidenced last night.

The party of no is showing no interest in sitting down with us at the negotiating table. The party of no has shown no interest in legislating. And I am most concerned that the party of no has shown no interest in helping the millions of people who have no insurance and the 20 million who are underinsured and the millions more who are paying too much for health care they could lose with one pink slip, one accident, or one illness. Millions of people are afraid they are going to lose their insurance. That is what this debate is about. It is not just about people who have no insurance, it is about people who have insurance, to keep it. In the last 8 years, the number of uninsured in this country has gone up by 10 million people—10 million people.

So I remind my Republican colleagues again, this is not about winning and losing. This is not the time for ideology. This is not the place for political games. For the millions of Americans who have paid crushing health care costs or those with no coverage at all, it is about a concrete and critical crisis that children, families, and small businesses feel every single day. It is about the parent who cannot afford to take their kid to the doctor because insurance is too expensive. It

is about the small businesses that have to lay off employees because they cannot afford skyrocketing health care payments. It is about small businesses that have to eliminate health insurance because they cannot afford it. It is about the three in five families who put off necessary medical care because it costs too much.

American families in every one of our States are counting on us to work together in our common interests. They are not counting the political points scored by either party. Senate Democrats want nothing more than to work with Republicans to create a bipartisan health reform bill that ensures quality and affordable help for all Americans. That is why the HELP Committee has held 14 bipartisan roundtables, 13 committee hearings, and 20 meetings of committee members to discuss various proposals—each one with the goal of reaching a bipartisan agreement. Hardworking Americans are too often casualties of our health care system. They deserve better than to also be the casualties of this kind of politics.

It is not too late for Republicans to join us for a serious discussion and sincere dialog about how to move this country forward. As I did at the beginning of this year, this Congress, this debate, and this week, I still have hope they will.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE WEEK IV, DAY II

Mr. MCCONNELL. Mr. President, the Secretary of Health and Human Services recently said that when it comes to health care, the status quo is unacceptable, and I agree with her. She then went on to say that there are a lot of people on Capitol Hill who are content with doing nothing, though she didn't name names. On that point, I totally disagree. Republicans and Democrats all share the belief that health care reform is needed. The question is what kind of reform it should be.

Some have proposed a government-run health care system that would force millions to give up the private health plans they have and like and replace them with a government plan where care is denied, delayed, and rationed. This so-called ''reform'' is not the kind of change Americans want. They want health care that is more affordable and accessible, but that preserves the doctor-patient relationship and the quality of care they now enjoy.

And that is why Republicans are proposing reforms to make health care less expensive and easier to obtain without destroying what's good about our system. Republicans want to reform our medical liability laws to discourage junk lawsuits and bring down the cost of care; we want to encourage wellness and prevention programs that have been successful in cutting costs; we want to encourage competition in the private insurance market to make care more affordable and accessible; and we want to address the needs of small businesses without creating new taxes that kill jobs. But instead of embracing these commonsense ideas that Americans support, Democrats in Congress are trying to rush through a health care bill that will not only lead to a government-run system, but will do so by spending trillions of dollars and plunging our country deeper and deeper into debt.

Recently, the independent Congressional Budget Office told us that just one—just one—section of the bill being discussed in the HELP Committee would spend $1.3 trillion over a decade. And Senator GREGG, the ranking member on the Budget Committee, estimates the HELP bill could end up spending more than $2 trillion—more than $2 trillion on a bill that would not even solve the entire problem.

The American people don't want us to spend trillions of dollars we don't have on a health care system they don't want. And yet that is exactly what Democrats plan to do, even though they can't explain to anyone how they will pay for it. Despite the staggering costs of the Democrat health care plan, we're being told we need to rush it through the Congress for the sake of the economy. When Republicans ask how Democrats are going to pay for it, or what impact it will have on our health care system and the economy, the only words we hear are rush and spend, rush and spend.

We heard similar warnings earlier this year when Democrats pushed through their stimulus bill, and voted on it less than 24 hours after all of the details were made public. Well, if the American people learned anything from the stimulus, it is that we should be suspicious when we are told that we need to spend trillions of dollars without having the proper time to review how the money will be spent or what effect it will or will not have.

Democrats also said the stimulus money wouldn't be wasted and that they would keep track of every penny spent. Yet already we are learning about outrageous projects like a $3.4 million turtle tunnel that is 13 feet long or more than $40,000 being spent to pay the salary of someone whose job is to apply for more stimulus money.

The administration also predicted that if we passed the stimulus, the unemployment rate wouldn't exceed 8 percent. But just last week, the President said that unemployment would likely rise to 10 percent.

So when Democrats now predict that their health care plan will cut costs, Americans should be skeptical. And they have good reason to be, since independent estimates show that every health care proposal Democrats have offered would only hurt the economy.

Americans should also be skeptical when it comes to Democrat promises that people will be able to keep their current insurance. Just last week, the independent Congressional Budget Office said that just one section of the HELP Bill will cause 10 million people with employer-based insurance to lose the coverage they have. And that is even before we have seen a finished product. The bill is still missing significant sections, such as a government plan that Democrats want, which could force millions more to lose their current coverage.

The stimulus showed that when politicians in Washington say the sky is going to fall unless Congress approves trillions of dollars right away, we should be wary. Yet just a few months later, Americans are hearing the same thing from Democrats in the health care debate: rush and spend, rush and spend. Americans want health care reform, but they want the right health care reform. They want us to take the time and care necessary to get it right. And that is why the Democrats' rush and spend strategy is exactly the wrong approach.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes.

The Senator from Arizona is recognized.

HEALTH CARE REFORM

Mr. MCCAIN. Mr. President, today, the HELP Committee will meet to discuss another new government program that seeks to promote prevention and wellness. While prevention and wellness are important and can lead to lower overall health care costs, we already have several programs focused on prevention and wellness.

The HHS Fiscal year 2010 budget request for prevention is $700 million. In the recent omnibus approps bill there were $22 million worth of earmarks for legislators' pet projects for prevention and wellness, and $310.5 million worth of earmarks under the Health Resources and Services Administration. Yet the health care bill proposed by the majority includes $80 billion new spending on new prevention programs without even acknowledging the existing programs or suggesting improvements to them. In other words, wellness and fitness has become another trough to put both feet in for earmarks and pet projects of members.

We already have $1.8 trillion in Federal debt. Yet the majority keeps on spending on new government programs that intervene in the markets and our personal lives. Where will it stop?

The Center for Disease Control has devised programs focused on weight loss and obesity, smoking and tobacco, drinking and alcohol, injury and accident prevention. These programs receive hundreds of millions of taxpayer dollars each year. But the health reform bill being considered by the HELP Committee adds billions more for prevention on top of these programs.

This reckless spending by the majority is irresponsible. The majority should focus on whether the existing programs achieve the stated objectives. The Federal Government does nothing to measure effectiveness of prevention programs and has not a single metric for program performance. Before we create a new Federal entitlement program costing billions, we should first measure the effectiveness of our current programs.

I can tell you what is working. Employers all over the country are creating innovative, voluntary programs to promote healthier lifestyles and bring down costs. However, instead of removing hindrances to more employer prevention and wellness programs, the majority's first instinct is to create another government entitlement program and set up roadblocks to employer innovation.

I would now like to take a moment to put all of this in perspective. Today is Tuesday, June 23, and another day has passed without the Senate having a complete health care reform bill to consider. We don't yet know what the majority will propose for their so called ''government plan'' or how it will be paid for. What we do know is that a Congressional Budget Office preliminary estimate believes that the incomplete bill will cost over $1 trillion but cover only one-third of those current uninsured. So I dread the Congressional Budget Office cost estimate of a complete bill. Some fear that the final price tag for covering all Americans Auld cost taxpayers as much as $3 trillion.

We have a real problem here. Every day that goes by without the key elements of the majority's bill being available for consideration leads to another day where millions of Americans will become uninsured. This is an absolute disservice to our constituents and an embarrassment.

The President of the United States and the majority continue to allege that we will enact health care reform before we leave for the August recess. We are now approaching the July recess. We do not have an estimate or the language, much less the estimate, of two vital, important parts of any health care reform legislation: what will be the role of the employer and what will be the government mandate or the government role, and, finally, how much all this will cost the taxpayers.

So we are talking about one-fifth of the gross domestic product of this Nation, and we are expected, in a few short weeks, to enact overall health care reform with still the Members on this side of the aisle not being informed as to what the plan is, much less have a serious debate. There are meetings of the committees going on and discussion and nice things said about each other. I always enjoy that. But the fact is, we have not gotten down to the fundamental challenges of health care reform in America.

The days are growing shorter and the time is growing short. We cannot enact health care reform and fail. We cannot do that. The sooner the better that we get the full perspective of what is the proposal of the administration and the other side and how much it costs and what the fundamental issues are that are being addressed—such as employer mandates and government mandates. They are certainly not clear not only to us but to the American people.

We have to communicate to the American people how we are going to fix health care. We can't do that unless we have a complete plan to consider and present to them, as well as to Members on this side of the aisle.

I yield the floor.

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

SOTOMAYOR NOMINATION

Mr. CORNYN. I would like to use the next 10 minutes or so to address the nomination of Judge Sonia Sotomayor to be the next Associate Justice of the U.S. Supreme Court. I spoke last week a little bit on this nomination and the constitutional responsibility of the Senate to conduct a fair and, I believe, dignified hearing that will be held, now, on July 13, just a couple of short weeks from now. As I said then, and I will say it again, she deserves the opportunity to explain her judicial philosophy more clearly and to put her opinions and statements in proper context. I think every nominee deserves that. But I don't think it is appropriate for anyone—this Senator or any Senator—to prejudge or to preconfirm Judge Sotomayor or any judicial nominee.

This is an important process, as I said, mandated by the same clause of the Constitution that confers upon the President the right to make a nomination, and it is the duty of the Senate to perform something called advice and consent, a constitutional duty of ours. It should be undertaken in a responsible, substantive, and serious way.

Last Thursday I raised three issues I will reiterate briefly with regard to Judge Sotomayor's record. I would like to hear more from her on the scope of the second amendment to the Constitution and whether Americans can count on her to uphold one of the fundamental liberties enshrined in the Bill of Rights: the right to keep and bear arms. I would also like to hear more from Judge Sotomayor on the scope of the fifth amendment and whether the government can take private property from one person and give it to another person based on some elastic definition of public use. And, I want to hear more from her on her thoughts on the equal protection clause of the 14th amendment of the Constitution, which reads in part:

> No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.

Obviously, the third issue is going to be very much in the news, probably again as soon as next Monday, when the Supreme Court hands down its decision in the Ricci v. DiStefano case, a case in which Judge Sotomayor participated on the panel before her court of appeals. That case, as you may recall, involves firefighters who took a competitive, race-neutral examination for promotion to lieutenant or captain at the New Haven Fire Department.

The bottom line is, the Supreme Court could decide the Ricci case in a matter of days, and the Court's decision, I believe, will tell us a great deal about whether Judge Sotomayor's philosophy in that regard, as far as the Equal Protection Clause is concerned, is within the judicial mainstream or well outside of it.

The Ricci case is one way the American people can get a window into Judge Sotomayor's judicial philosophy. Another way is to look at some of her public comments, including speeches made on the duty and responsibility of judging.

The remarks that have drawn the most attention are those in which she said:

> I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life.

As I said before, and I will say it again, there is no problem—certainly from me, and I do not believe any Senator—if she is just showing what I think is understandable pride in her heritage, as we all should as a nation of immigrants. But if the judge is talking about her judicial philosophy and suggesting that some people, some judges, because of their race, because of their ethnicity, because of their sex, actually make better decisions on legal disputes, then that is something Senators will certainly want to hear more about, this Senator included.

Judge Sotomayor has made other public remarks that deserve more scrutiny than they have received so far. For example, in a speech in 2002, Judge Sotomayor embraced the remarks of Judith Resnick and Martha Minow, who are two prominent law professors who have each proposed theories about judging that are far different than the way most Americans think about these issues. Most Americans think the people elect their representatives, Members of the House and Senate, to write

the laws, and the judges, rather than rewriting those laws, should interpret those laws in a fair and commonsense way, without imposing their own views on what the law should be.

Most Americans think that when judges impose their own views on a case, when they substitute their own political preferences for those of the people and their elected representatives, then they undermine Democratic self-government and they become judicial activists.

Professors Resnick and Minow have very different ideas than I think the mainstream American thinks on what a judge's job should be. Their views may not be controversial in the ivory tower of academia. Academics often encourage each other to engage in provocative theories so they can write about them and get published and get tenure.

But the American people generally do not want judges to experiment with new legal theories when it comes to judging. They have a more commonsense view that judges should follow the law and not the other way around.

So where does Judge Sotomayor stand on some of these academic legal theories, which I think are far out of the mainstream of American thought? I am not sure. But in her 2002 remarks she said this:

> I accept the proposition that as [Professor] Resnick describes it, ''to judge is an exercise of power.''

And:

> as . . . Professor Minow . . . states ''there is no objective stance but only a series of perspectives—no neutrality, no escape from choice in judging.''

If I understand her quotes correctly, and those are some things I want to ask her about during the hearing, that is not the kind of thing I think most Americans would agree with. They do not want judges who believe that there is no such thing as neutrality in judging because neutrality is an essential component of fairness. If you know you are going to walk into a courtroom only to have a judge predisposed to deciding against you because of some legal theory, then that is not a fair hearing. And we want our judges to be neutral and as fair as possible when deciding legal disputes.

The American people, I do not think, want judges who believe they have been endowed with some power to impose their views for what is otherwise the law. Americans believe in the separation of powers, the separation between Executive, legislative and judicial power and that judges should, by definition, show self-restraint and respect for our branches of government.

I hope Judge Sotomayor will address these academic legal theories during her confirmation hearing. I hope she will clarify what she sees in the writings of Professors Resnick, Minow, and others whom she finds so admirable.

I hope she will demonstrate that she will respect the Constitution more than those new-fangled legal theories and that she will respect the will of the people as represented by the laws passed by their elected representatives and not by life-tenured Federal judges who are not accountable to the people.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, will the Chair please let me know when I have consumed 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator will be so notified.

HEALTH CARE

Mr. ALEXANDER. Mr. President, this morning one of our bipartisan breakfasts occurred which we have here every so often. Senator LIEBERMAN and I and other Senators organized it. 16 Senators there attending this morning's breakfast. The Presiding Officer is often a participant in those meetings. At this morning's breakfast we discussed health care. As we listened to the chairman, ranking member, and other senior members of the Finance Committee one of the things we said is that we agree on about 80 percent of what needs to be done.

But one of the areas where we do not agree is cost. Another area is whether a so-called government-run insurance option will lead to a Washington takeover of health care. A lot of us are feeling like we have had about enough Washington takeovers: our banks, our insurance companies, our student loans, our car companies, even our farm ponds, and now health care.

Government-run insurance is not the best way to extend coverage to low-income Americans who need it. The chairman of the Finance Committee indicated that his bill would be paid for. But on the Health, Education, Labor, and Pensions Committee, on which I serve, that is not the case. The bill is not even finished yet, and already, as the Senator from New Hampshire has pointed out, in the 5th through the 14th year, 10 years, it would cost 2.3 trillion new dollars, raising the Federal debt to even further unimaginable levels.

Let me mention an aspect of cost which is often overlooked. Federal debt is certainly a problem, but as a former Governor, I care about the State debt and State taxes. The States do not have printing presses, they have to balance their budgets. So when we do something up here that puts a cost on States down there, they have to raise taxes or cut programs.

We know the programs they have to cut: education, and health care programs, both are important to people in Illinois and people in Tennessee.

The Medicaid Program in the Kennedy bill that we are considering would increase Medicaid to 150 percent of the Federal poverty level, which sounds real good until you take a look at the cost.

In Tennessee alone, if the State had to pay its share of the requirement, about one-third, that would be $600 million. It would be another $600 million if, as has been suggested, it is required that the State reimburse physicians up to 110 percent of Medicare. So that is $1.2 billion of new costs just for the State of Tennessee.

The discussion has been that the Federal Government will take that over for a few years and then will shift that back to the States. Well, my response is that every Senator who votes for such a thing ought to be sentenced to go home and serve as Governor of his or her State for 8 years and figure out how to pay for it or manage a program like that.

In our State, we talk about money. Up here, a trillion here, a trillion there. But $1.2 billion in the State of Tennessee equals to about a 10-percent income tax on what the people of Tennessee would bring in. We do not have an income tax. So that would be a new 10-percent income tax.

So one of my goals in the health care debate is to make sure we do not get carried away up here with good-sounding ideas and impose huge, unfunded mandates on the States, which, according to the tenth amendment to the Constitution, we are not supposed to. But we superimpose our judgment upon the Governors, the legislators, the mayors, the local politicians who are making decisions about whether to spend money to lower tuition or improve the quality of the community college or provide this form of health care or build this road or bridge. That is their decision. And if we want to require something, we should pay for it from here.

I am going to be very alert on behalf of the States and the citizens of the States to any proposal that would shift unfunded mandates on State and local governments. I hope my colleagues will as well.

My suggestion to every Governor in this country is, over the next few days, to call in your Medicaid director, ask that Medicaid director to call the Senate and say: Tell us exactly how much the Kennedy bill and the Finance Committee bill will impose in new costs on our State if the costs are shifted to the States. Then when we come back at the first of July, we can know about that cost.

The ACTING PRESIDENT pro tempore. The Senator has used 5 minutes.

Mr. ALEXANDER. I thank the Chair very much. So my interest is not just in additions to the Federal debt but not allowing unfunded mandates to the States.

I ask unanimous consent to have printed in the RECORD an article from the New York Times from June 22, 2009, showing what condition the States are in. Almost all are in a budget crisis and not in any position to accept this.

I also would like to thank the Senator from Arizona for allowing me to go ahead of him so I can go to the committee and offer an amendment.

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

[From the New York Times, June 22, 2009]

STATES TURNING TO LAST RESORTS IN BUDGET CRISIS

(By Abby Goodnough)

In Hawaii, state employees are bracing for furloughs of three days a month over the next two years, the equivalent of a 14 percent pay cut. In Idaho, lawmakers reduced aid to public schools for the first time in recent memory, forcing pay cuts for teachers.

And in California, where a $24 billion deficit for the coming fiscal year is the nation's worst, Gov. Arnold Schwarzenegger has proposed releasing thousands of prisoners early and closing more than 200 state parks.

Meanwhile, Maine is adding a tax on candy, Wisconsin on oil companies, and Kentucky on alcohol and cellphone ring tones.

With state revenues in a free fall and the economy choked by the worst recession in 60 years, governors and legislatures are approving program cuts, layoffs and, to a smaller degree, tax increases that were previously unthinkable.

All but four states must have new budgets in place less than two weeks from now—by July 1, the start of their fiscal year. But most are already predicting shortfalls as tax collections shrink, unemployment rises and the stock market remains in turmoil.

''These are some of the worst numbers we have ever seen,'' said Scott D. Pattison, executive director of the National Association of State Budget Officers, adding that the federal stimulus money that began flowing this spring was the only thing preventing widespread paralysis, particularly in the areas of education and health care. ''If we didn't have those funds, I think we'd have an incredible number of states just really unsure of how they were going to get a new budget out.''

The states where the fiscal year does not end June 30 are Alabama, Michigan, New York and Texas.

Even with the stimulus funds, political leaders in at least 19 states are still struggling to negotiate budgets, which has incited more than the usual drama and spite. Governors and legislators of the same party are finding themselves at bitter odds: in Arizona, Gov. Jan Brewer, a Republican, sued the Republican-controlled Legislature earlier this month after it refused to send her its budget plan in hopes that she would run out of time to veto it.

In Illinois, the Democratic-led legislature is fighting a plan by Gov. Patrick J. Quinn, also a Democrat, to balance the new budget by raising income taxes. And in Massachusetts, Gov. Deval Patrick, a Democrat, has threatened to veto a 25 percent increase in the state sales tax that Democratic legislative leaders say is crucial to help close a $1.5 billion deficit in the new fiscal year.

''Legislators have never dealt with a recession as precipitous and rapid as this one,'' said Susan K. Urahn, managing director of the Pew Center on the States. ''They're faced with some of the toughest decisions legislators ever have to make, for both political and economic reasons, so it's not surprising that the environment has become very tense.''

In all, states will face a $121 billion budget gap in the coming fiscal year, according to a recent report by the National Conference of State Legislatures, compared with $102.4 billion for this fiscal year.

The recession has also proved politically damaging for a number of governors, not least Jon Corzine of New Jersey, whose Republican opponent in this year's race for governor has tried to make inroads by blaming the state's economic woes on him. Mr. Schwarzenegger, who sailed into office on a wave of popularity in 2003, will leave in 2011—barred by term limits from running again—under the cloud of the nation's worst budget crisis. And the bleak economy has played a major role in the waning popularity of Gov. David A. Paterson of New York.

Over all, personal income tax collections are down by about 6.6 percent compared with last year, according to a survey by Mr. Pattison's group and the National Governors Association. Sales tax collections are down by 3.2 percent, the survey found, and corporate income tax revenues by 15.2 percent. (Although New Jersey announced last week that a tax amnesty program had brought in an unexpected $400 million—a windfall that caused lawmakers to reconsider some of the deeper cuts in a $28.6 billion budget they were set to approve in advance of the July 1 deadline.)

As a result, governors have recommended increasing taxes and fees by some $24 billion for the coming fiscal year, the survey found. This is on top of more than $726 million they sought in new revenues this year.

The proposals include increases in personal income tax rates—Gov. Edward G. Rendell of Pennsylvania has proposed raising the state's income tax by more than 16 percent, to 3.57 percent from 3.07 percent, for three years—and tax increases on myriad consumer goods.

''They have done a fair amount of cutting and will probably do some more,'' said Ray Scheppach, executive director of the governors association. ''But as they look out over the next two or three years, they are also aware that when this federal money stops coming, there is going to be a cliff out there.''

Raising revenues is the surest way to ensure financial stability after the stimulus money disappears, Mr. Scheppach added, saying, ''You're better off to take all the heat at once and do it in one package that gets you through the next two, three or four years.''

While state general fund spending typically increases by about 6 percent a year, it is expected to decline by 2.2 percent for this fiscal year, Mr. Pattison said. The last year-to-year decline was in 1983, he said, on the heels of a national banking crisis.

The starkest crisis is playing out in California, where lawmakers are scrambling to close the $24 billion gap after voters rejected ballot measures last month that would have increased taxes, borrowed money and reapportioned state funds.

Democratic legislative leaders last week offered alternatives to Mr. Schwarzenegger's recommended cuts, including levying a 9.9 percent tax on oil extracted in the state and increasing the cigarette tax to $2.37 a pack, from 87 cents. But Mr. Schwarzenegger has vowed to veto any budget that includes new taxes, setting the stage for an ugly battle as the clock ticks toward the deadline.

''We still don't know how bad it will be,'' Ms. Urahn said. ''The story is yet to be told, because in the next couple of weeks we will see some of the states with the biggest gaps have to wrestle this thing to the ground and make the tough decisions they've all been dreading.''

In one preview, Gov. Tim Pawlenty of Minnesota, a Republican, said last week that he would unilaterally cut a total of $2.7 billion from nearly all government agencies and programs that get money from the state, after he and Democratic legislative leaders failed to agree on how to balance the budget.

In an example of the countless small but painful cuts taking place, Illinois announced last week that it would temporarily stop paying about $15 million a year for about 10,000 funerals for the poor. Oklahoma is cutting back hours at museums and historical sites, Washington is laying off thousands of teachers, and New Hampshire wants to sell 27 state parks.

Nor will the pain end this year, Ms. Urahn said, even if the recession ends, as some economists have predicted. Unemployment could keep climbing through 2010, she said, continuing to hurt tax collections and increasing the demand for Medicaid, one of states' most burdensome expenses.

''Stress on the Medicaid system tends to come later in a recession, and we have yet to see the depth of that,'' Ms. Urahn said. ''So you will see, for the next couple years at least, states really struggling with this.''

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

HEALTH CARE

Mr. KYL. I wish to commend the Senator from Tennessee because he has been a leader in pointing out the problems that these new health care expenditures would impose upon our States. It is important to have the Governors of the States and the State legislators to begin to let Washington know what they think about these new costs that they are somehow going to have to bear.

Let me begin at the outset here, on the same subject, to make it clear that Republicans are very eager for serious health care reform, just as I think the American people are.

That is why we support new ideas that would actually cut health care costs and make all health care more affordable and accessible. Republicans want to reform our medical liability laws to curb frivolous lawsuits. We want to strengthen and expand wellness programs that encourage people to make healthy choices about smoking, diet, and exercising. All those have huge impacts on the cost of health care.

We also wish to address the needs of the unemployed, those who work for or own a small business, those with preexisting conditions, all of these we can address. And this can and must be done without imposing job-killing taxes and regulations. In short, we favor innovation, not just regulation.

Our Democratic friends would like to take a different route. Many of them would like to impose a one-size-fits-all Washington-run bureaucracy that we believe, ultimately, would lead to the kind of delay and denial of care we have heard about in Canada and Great Britain. I have spoken at length about the trouble with health care rationing, so today I would like to talk about the cost of a new Washington-run health care system.

The administration often argues that we need Washington-run health care to help the economy. Well, ''Washington bureaucracy'' and ''economic growth'' are not phrases that tend to have a positive correlation. Is it realistic to think that adding millions of people to a new government-run health insurance system will somehow save money or help the economy?

As the Wall Street Journal recently editorialized about the so-called plan:

In that kind of world, costs will climb even higher as far more people use ''free'' care and federal spending will reach epic levels.

One wag quipped: ''If you think health care is expensive now, just wait until it is free.''

In fact, the first estimate from the nonpartisan Congressional Budget Office shows that just a portion of the Democratic plan, covering only one-third of the uninsured, will cost over $1 trillion—$1 trillion to cover 16 million more people.

That is just for one part of the proposed plan. That works out to about over $66,000 per person.

The administration said last weak it wants to rework the plan to bring the cost down below $1 trillion. Well, that will help. They have not provided a specific number. But what I would like to know is: Do they consider anything below $1 trillion acceptable—$999 billion, $800 billion? What is acceptable here? Is it trying to get it down below $1 trillion so the sticker shock is not quite so great?

The American people are very worried about our increasing national debt. This only makes the problem worse, not better.

As the Republican leader mentioned in his radio address Saturday, the President used this same economic argument to sell the $1.3 trillion stimulus package: ''We have to move quickly to pass new government spending to help the economy.'' Four months later, unemployment has risen to 9.4 percent, much higher than the 8-percent peak the administration said it would be if we quickly passed the stimulus legislation. Now the administration is asking for billions more for a Washington-run health care plan.

As the New York Times noted last Friday, while the Democrats' bill outlines massive amounts of new spending, it does not explain how it intends to pay for it. That is an important detail. Congress would either have to run up more debt on top of the historic debt already produced by the President's budget and the stimulus bill, or it will have to raise taxes. That is one area in which our colleagues on the other side of the aisle have actually offered a lot of new ideas: Taxes on beer, soda, juice, and snack food, along with new limits on charitable contributions have all been proposed. But actually, they are a drop in the bucket relative to the amount of new taxes that would be required to fund their plan.

I would like to know: When will we draw the line and try something other than new taxes and massive new government spending to solve the problem?

Americans want health care reform, but most of them don't want to be saddled with mountains of new debt. As a June 21 New York Times article reported, a new survey shows—and I am quoting—''considerable unease about the impact of heightened government involvement on both the economy and the quality of respondents' own care.''

The American people are very worried that their own care, which they are generally satisfied with, will be negatively impacted as a result of the so-called ''reform'' that is being proposed. That same survey, which was an NBC New York Times survey, also showed that while 85 percent of Americans want serious reform, only 28 percent are confident that a new health care entitlement will improve the economy. So as the President is trying to sell this on the basis that we need it for the economy, only 28 percent of Americans believe that is the case. Frankly, I share their skepticism. It is going to hurt, not help.

We need to reform health care right. I think there is much more virtue in doing it correctly over doing it quickly. President Obama promised change, but there is nothing new about dramatically increasing government spending and adding even more to our national debt. I hope some of my friends on the Democratic side, as well as Republicans, can agree that when it comes to health care reform, we should embrace real changes that support medical innovation and put patients first. That is the answer. That is what the American people want.

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

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

HEALTH CARE

Mr. DURBIN. Mr. President, the Senate is considering many issues now of great importance, but none more important to the American people than the future of health care in this great Nation.

This weekend, a new poll was released by the New York Times and CBS. Eighty-five percent of the people surveyed said the health care systems in America need fundamental change or to be completely rebuilt—85 percent. So people sense all across this country that though we have great hospitals and doctors, there is something fundamentally flawed with our system, and we can understand why. We are spending more money than any other country on Earth and we are not getting the medical results we want; and there is real uncertainty that average people won't be able to keep up with the costs of health insurance, the battles with health insurance companies over coverage, and whether at the end of the day they can have the quality health care every single person wants for themselves and their family.

They asked the American people which party they trusted to deal with health care reform, and 18 percent said they trusted the party on the other side of the aisle—the Republicans, while 57 percent trusted the Democratic majority. Even one out of every four Republicans said that the Democrats would do a better job in creating a better health care system.

People on this side of the aisle want a bill that works with the current system and fixes what is broken. We not only want to respond to the 85 percent of people who want change, we are listening to 77 percent of the people who say they are satisfied at this moment with the quality of their own care. So the starting point is if you have health insurance you like and it is good for your family, you can keep it. We are not going to change that. It is a tricky balance but one we have to address: how to preserve what is good but fix what is broken.

One of the foundations is the so-called public option. A lot of people don't know what that means, but it basically says there should be an option to private health insurance companies that is basically public in nature. We have a lot of public health now in America. Medicare is the obvious example. Forty million people count on Medicare to provide affordable, quality care in their elderly years and during their disabilities. The Medicaid Program is another one for the poor people in our society. We have veterans health care. There are ways that we involve the government in health care that have been proven to be successful—not just for years but for decades.

Many folks on the other side of the aisle come to the floor warning us about government involvement in health care. I have not heard a single one of them call for the end of Medicare or the end of veterans' care, not a one of them. We asked the American people: What do you think about a government health care plan as an option—a choice—for you so that you can choose from the well-known names in health insurance, private companies, but then you also have one other choice; you can pick the public plan, the public interest plan, the government plan. This poll taken by the New York Times and CBS found that there was broad bipartisan backing for a public option. Half of those who call themselves Republican say they would support a public plan, along with nearly three-quarters of Independents. This chart here shows the question: Would you favor or oppose the government offering everyone a government-administered health insurance plan such as Medicare that would compete with private health insurance plans? All respondents—72 percent—said they favored it. Only 20 percent were opposed.

So three to one favor the idea of a public health care plan. Fifty percent of Republicans do, 87 percent of Democrats, and 73 percent of Independents.

Then we asked the harder question: Are you willing to pay more or higher taxes so that all Americans can have health insurance that they can't lose no matter what happens? Look at this number: Fifty-seven percent of all who responded said they are willing to pay higher taxes if it means that everybody has peace of mind that health insurance would be there. Those making less than $50,000, 64 percent of those folks support it, and those with incomes over $50,000, 52 percent supported it as well.

Many of the people coming to the floor on the other side of the aisle don't agree with the vast majority of Americans when it comes to this issue. I commend my colleagues on the other side of the aisle for at least coming to engage us in this debate, but we do see things a lot differently. We have heard a lot of Republicans coming to the floor discussing health care. Many of them have been critical of change. Maybe it has been made clear to a majority of the American people that those who are waiting on Congress to act may see some on the other side of the aisle reluctant and slow, while those on our side of the aisle are trying to follow President Obama to a solution. Regardless of the reason, it seems that most of the Republicans' approach to this can be summarized in three words: deny, delay, and ration. That is what we have heard from the Republicans on health care reform.

The Republican leader started it 2 weeks ago. We heard it from him again last week, and no doubt we will hear it from him again this week, as well as from the Republican whip. Perhaps they think if they keep drilling home these three words—deny, delay, and ration—that people will lose their appetite for change in our health care system.

When our economy was in a deep freeze earlier this year with the recession that President Obama inherited, he called on us to enact landmark legislation to try to get this economy moving forward. It was an effort that was resisted by the other side of the aisle. We ended up with three Republicans at the time who supported us, even though the President asked them personally to be engaged, to be involved, and to help us solve this problem. But they denied that the problem was as great as it was. They wanted to delay consideration of the legislation, drag it out as long as possible, and then they wanted to limit, or ration, the dollars we put into recovery. They thought the economy would get well all by itself. If we had given in to their view, I am afraid unemployment figures today would be even higher, economic output anemic, and many of our States facing bankruptcy today would be faced with even worse circumstances. So we went forward. We would not allow the Republican approach when it came to recovery and reinvestment in the American economy.

We see the strategy now repeatedly from the Republican side of the aisle. It seems to be their approach to governing or not governing. They want to deny requests on the floor to move to legislation. Last night was the most recent. Here is a bill which nobody argues against to increase tourism in the United States, bring in more foreign visitors who will spend more money, who will help hotels and restaurants and airlines and businesses, large and small. Eleven Republicans cosponsored it. Last night we said, OK, let's pass it. Let's get it done. Let's move on. This is the type of thing that is good, but it shouldn't take all of this time to do. Only 2 of the 11 Republicans who cosponsored the tourism bill were willing to vote for it last night. They wanted to delay this again. They want us to end up this week accomplishing little or nothing. At the end of the week, if they get us to do nothing, they consider it a successful week. I don't see how it can be. This bill we are talking about on tourism is designed to help create jobs in this country—something we desperately need.

Health care is a serious issue which we need to move on and not delay. Democrats believe the role of the Federal Government is to keep the best interests of the American people in mind. Half of those questioned in the New York Times-CBS poll said they thought the government would be better at providing medical coverage than private insurers. Incidentally, that number is up from 30 percent a couple of years ago. Nearly 60 percent said Washington would have more success in holding down the costs, up from 47 percent.

The American people know the government doesn't want to deny people health care, delay their services, or ration, but it is no surprise the Republican leaders still use these words. That is their playbook. It is a playbook that was written by a pollster, an adviser and counselor whom I know—Frank Luntz. Mr. Luntz has been around a long time. He is the guru, the go-to guy, the great thinker on the Republican side of the aisle. He calls himself in his own publications Dr. Frank Luntz. Well, it looks as though when it comes to strategy on health care reform, the Republicans are more focused on Dr. Frank than they are on the realities that doctors and patients face in America every single day. Dr. Frank give them a 28-page memo on how to stop health care reform before we had even put a bill on the table.

There are those who want to stop health care reform before they know what is in it. Do you know who they are? They are the people who are today making a fortune on the current health care system. They see their profitability at risk if there is health care reform.

It is no wonder that you hear Dr. Frank come up with proposals for the Republican side of the aisle, which are then repeated here on the floor of the Senate. On page 15 of his marching orders, Frank Luntz wrote:

> It is essential that ''deny'' and ''denial'' enter the conservative lexicon immediately.

On page 24, he said:

> Of the roughly 30 distinct messages we tested, nothing turns people against what Democrats are trying to do more immediately than the specter of having to wait.

On page 23 of the memo of Dr. Frank Luntz, he wrote:

> The word ''rationing'' does induce the negative response you want. . . .

He says that to his Republican followers.

> . . . ''rationing'' tests very well against the other health care buzzwords that frighten Americans.

That last phrase caught my attention, because more and more of what we hear from the other side of the aisle in criticizing President Obama's agenda is fear—be afraid, very afraid, be afraid of change.

The American people weren't afraid of change last November; they voted for it. They asked for change in the White House. I think they said it overwhelmingly. We have seen change. What we hear from the Republican side is to be afraid of change. That is their mantra, whether it is a question of changing the economy as it was under the Bush administration, changing health care as it has been for years, changing education so that we get better results, the Republicans say be afraid of this, be frightened.

I think that is, unfortunately, their motto. They have used it time and again. I don't think it is what Americans feel. We are a hopeful nation, not a fearful nation. We want to be careful but not afraid. We want to make the right decisions and make them on a cooperative basis and bring everybody in a room and try to come up with a reasonable answer. But we should not be afraid to tackle these things and not frightened by the prospect that it might be hard work. As the President said about health care reform, if it were easy, it would have been done a long time ago. That is something we all need to look at and understand.

I can tell you that Democrats recognize the status quo, the way we have been doing things forever, isn't working for millions of Americans when it comes to health care. The idea of having the public insurance plan option is a course to make sure that we keep the private profitable health insurance companies honest, and see that they have some competition; otherwise, we are stuck with the current system, where they can make a blanket decision that people with preexisting conditions have no coverage or they can decide what your doctor thinks is the best procedure is something they won't pay for.

American families deserve health insurance that does not force families to face limitless out-of-pocket expenses.

Americans want real health insurance reform. This public option is going to promote that kind of choice.

My colleagues on the other side of the aisle continue to assault this idea of public insurance, insisting it is too much government. The minority leader on the Republican side said Americans don't deserve a health care system that forces them into government bureaucracy that delays or denies their care and forces them to navigate a web of complex rules and regulations. Of course they don't.

Raising that fear, as suggested by Dr. Frank Luntz, the Republican strategist, is what they want to do—plant the seeds in the minds of people that any change will be bad. I don't think the American people feel that way. If you want to see a bureaucracy, try getting through a call to your health insurance company after you get the letter that says they won't cover the $1,500 charge for the procedure your doctor ordered. Talk to someone who can no longer get health insurance because of an illness they had years ago, a preexisting condition, or because they are too old in the eyes of health insurance companies. Ask them how streamlined or efficient conversations are with insurance companies today.

If you want to see a bureaucracy, talk to a small businessman in Springfield, a friend of mine, who had to jump through a series of hoops to find a way to continue health care coverage for his employees and keep his business going. Plain and simple, health insurance today is a bureaucracy. It is one most people know firsthand. Americans and small business owners face it every day.

We need to move to a new idea, an idea not based on the health insurance companies' model. Frankly, they are the ones who are profiting.

Last year was a bad year for most American businesses. According to CNN and Fortune Magazine, only 24 Fortune 500 companies' stocks generated a positive return last year. Among those that didn't have that were GM, United Airlines, Time-Warner, Ford, CBS, and Macy's. All these companies lost billions in what financial analysts tell us was the fortune 500's ''worst year ever.''

There were two sectors of the economy that did well—the oil industry and the health insurance industry. The top four health insurance companies in America—UnitedHealth Group, WellPoint, Aetna, and Humana—made more than $7.5 billion in combined profit last year, while the bottom fell out for virtually every other company, short of the oil industry, across the board.

The goal with the Democratic health reform bill is to create health care that values patients over profits and quality more than bottom line take-home pay and bonuses.

Republicans want to preserve a broken system, one with escalating costs and no guarantee the policy will be there when you need it. Rather than help insurance companies, Democrats want to put American families first and help those struggling with high health care costs.

This is a moment of truth for us in this Congress. This isn't an easy issue. Right now, the Finance Committee and HELP Committee are working hard to put together health care reform. Without it, things are going to get progressively worse. The cost of health care will continue to rise to unsupportable levels. Even if individuals have a good health insurance plan today, it may cost too much tomorrow. Even if they think their health insurance covers them well today, they may be denied coverage tomorrow. Businesses that want to keep insuring their employees worry over whether they can be competitive and still pay high health insurance premiums. Individuals worry about this as well.

The last point I want to make is that I think the President is right to say to us that we have to get this job done. I say to my friends on the other side of the aisle: Don't deny the obvious. Don't come to the floor and deny the need for health care reform. It is real. We need it in this country, and 85 percent of the American people know it. The Republican leadership should come to know it in the Senate.

Second, don't dream up ways to delay this important deliberation. That isn't serving our country well. If justice delayed is justice denied, the same is true regarding health care reform. Delaying this into another Congress and another year doesn't solve the problem. It makes it worse. We need to face it today, and we need a handful of Republicans who will step away from the Republican leadership and say they are willing to talk, that if this is a good-faith negotiation to find a reasonable compromise, they are willing to do it. It has happened in the past—even a few months ago; it can happen again. It will take real leadership on their side.

The President said his door is open. The same thing is true on the Democratic side. The door is open for those who want to, in good faith, try to solve the biggest domestic challenge we have ever faced in the Senate. We have that chance to do it. We honestly can do it if we work in good faith.

But denying the problem, delaying efforts to get to the problem, and deciding we are only going to do a tiny bit of it so we can move on to something else is, unfortunately, a recipe for disaster. It is one the American people don't deserve and one we should avoid.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. UDALL of Colorado pertaining to the introduction of S. 1321 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Madam President, I ask unanimous consent that Senator SESSIONS and I be granted 20 minutes.

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

SOTOMAYOR NOMINATION

Mr. MCCONNELL. Madam President, this morning I would like to turn my attention to the nomination of Judge Sonia Sotomayor to the Supreme Court and more specifically to the so-called empathy standard that President Obama employed in selecting her for the highest Court in the land.

The President has said repeatedly that his criterion for Federal judges is their ability to empathize with specific groups. He said it as a Senator, as a candidate for President, and again as President. I think we can take the President at his word about wanting a judge who exhibits this trait on the bench. Based on a review of Judge Sotomayor's record, it is becoming clear to many that this is a trait he has found in this particular nominee.

Judge Sotomayor's writings offer a window into what she believes having empathy for certain groups means when it comes to judging, and I believe once Americans come to appreciate the real-world consequences of this view, they will find the empathy standard extremely troubling as a criterion for selecting men and women for the Federal bench.

A review of Judge Sotomayor's writings and rulings illustrates the point. Judge Sotomayor's 2002 article in the Berkeley La Raza Law Journal has received a good deal of attention already for her troubling assertion that her gender and ethnicity would enable her to reach a better result than a man of different ethnicity. Her advocates say her assertion was inartful, that it was taken out of context. We have since learned, however, that she has repeatedly made this or similar assertions.

Other comments Judge Sotomayor made in the same Law Review article underscore rather than alleviate concerns with this particular approach to judging. She questioned the principle that judges should be neutral, and she said the principle of impartiality is a

mere aspiration that she is skeptical judges can achieve in all or even in most cases—or even in most cases. I find it extremely troubling that Judge Sotomayor would question whether judges have the capacity to be neutral ''even in most cases.''

There is more. A few years after the publication of this particular Law Review article, Judge Sotomayor said the ''Court of Appeals is where policy is made.'' Some might excuse this comment as an off-the-cuff remark. Yet it is also arguable that it reflects a deeply held view about the role of a judge—a view I believe most Americans would find very worrisome.

I would like to talk today about one of Judge Sotomayor's cases that the Supreme Court is currently reviewing. In looking at how she handled it, I am concerned that some of her own personal preferences and beliefs about policy may have influenced her decision.

For more than a decade, Judge Sotomayor was a leader in the Puerto Rican Legal Defense and Education Fund. In this capacity, she was an advocate for many causes, such as eliminating the death penalty. She was responsible for monitoring all litigation the group filed and was described as an ardent supporter of its legal efforts. It has been reported that her involvement in these projects stood out and that she frequently met with the legal staff to review the status of cases.

One of the group's most important projects was filing lawsuits against the city of New York based on its use of civil service exams. Judge Sotomayor, in fact, has been credited with helping develop the group's policy of challenging those exams.

In one of these cases, the group sued the New York City Police Department on the grounds that its test for promotion discriminated against certain groups. The suit alleged that too many Caucasian officers were doing well on the exam and not enough Hispanic and African-American officers were performing as well. The city settled a lawsuit by promoting some African Americans and Hispanics who had not passed the test, while passing over some White officers who had.

Some of these White officers turned around and sued the city. They alleged that even though they performed well on the exam, the city discriminated against them based on race under the settlement agreement and refused to promote them because of quotas. Their case reached the Supreme Court with the High Court splitting 4 to 4, which allowed the settlement to stand.

More recently, another group of public safety officers made a similar claim. A group of mostly White New Haven, CT, firefighters performed well on a standardized test which denied promotions for lieutenant and for captain. Other racial and ethnic groups passed the test, too, but their scores were not as high as this group of mostly White firefighters. So under this standardized test, individuals from these other groups would not have been promoted. To avoid this result, the city threw out the test and announced that no one who took it would be eligible for promotion, regardless of how well they performed. The firefighters who scored highly sued the city under Federal law on the grounds of employment discrimination. The trial court ruled against them on summary judgment. When their case reached the Second Circuit, Judge Sotomayor sat on the panel that decided it.

It was, and is, a major case. As I mentioned, the Supreme Court has taken that case, and its decision is expected soon. The Second Circuit recognized it was a major case too. Amicus briefs were submitted. The court allotted extra time for oral argument. But unlike the trial judge who rendered a 48-page opinion, Judge Sotomayor's panel dismissed the firefighters' appeal in just a few sentences. So not only did Judge Sotomayor's panel dismiss the firefighters' claims, thereby depriving them of a trial on the merits, it didn't even explain why they shouldn't have their day in court on their very significant claims.

I don't believe a judge should rule based on empathy, personal preferences, or political beliefs, but if any case cried out for empathy—if any case cried out for empathy—it would be this one. The plaintiff in that case, Frank Ricci, has dyslexia. As a result, he had to study extra hard for the test—up to 13 hours each day. To do so, he had to give up his second job, while at the same time spending $1,000 to buy textbooks and to pay someone to record those textbooks on tape so he could overcome his disability. His hard work paid off. Of 77 applicants for 8 slots, he had the sixth best score. But despite his hard work and high performance, the city deprived him of a promotion he had clearly earned.

Is this what the President means by ''empathy''—where he says he wants judges to empathize with certain groups but, implicitly, not with others? If so, what if you are not in one of those groups? What if you are Frank Ricci?

This is not a partisan issue. It is not just conservatives or Republicans who have criticized Judge Sotomayor's handling of the Ricci case. Self-described Democrats and political independents have done so as well.

President Clinton's appointee to the Second Circuit and Judge Sotomayor's colleague, Jose Cabranes, has criticized the handling of the case. He wrote a stinging dissent, terming the handling of the case ''perfunctory'' and saying that the way her panel handled the case did a disservice to the weighty issues involved.

Washington Post columnist Richard Cohen was similarly offended by the way the matter was handled. Last month, before the President made his nomination, Mr. Cohen concluded his piece on the subject as follows:

Ricci is not just a legal case but a man who has been deprived of the pursuit of happiness on account of his race. Obama's Supreme Court nominee ought to be able to look the New Haven fireman in the eye and tell him whether he has been treated fairly or not. There's a litmus test for you.

Legal journalist Stuart Taylor, with the National Journal, has been highly critical of how the case was handled, calling it peculiar.

Even the Obama Justice Department has weighed in. It filed a brief in the Supreme Court arguing that Judge Sotomayor's panel was wrong to simply dismiss the case.

So it is an admirable quality to be a zealous advocate for your clients and the causes in which you believe. But judges are supposed to be passionate advocates for the evenhanded reading and fair application of the law, not their own policies and preferences. In reviewing the Ricci case, I am concerned Judge Sotomayor may have lost sight of that.

As we consider this nomination, I will continue to examine her record to see if personal or political views have influenced her judgment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank Senator MCCONNELL for his thoughtful comments. He is a former member of the Judiciary Committee, a lawyer who has studied these issues and cares about them deeply, and I value his comments. I do think that, as Senator MCCONNELL knows, and while he is here, once a nominee achieves the Supreme Court, they do have a lifetime appointment and these values and preferences and principles on which they operate go with them. So it is up to us, I think my colleague would agree, to make sure the values and principles they bring to the Supreme Court would be consistent with the rule of law. So I appreciate the Senator's comments.

Mr. MCCONNELL. If the Senator from Alabama will yield.

Mr. SESSIONS. I will yield.

Mr. MCCONNELL. I commend Senator SESSIONS for his outstanding leadership on this nomination and his insistence that we be able to have enough time to do the job—to read the cases, read the Law Review articles, and to get ready for a meaningful hearing for one of the most important jobs in America. I think he has done a superb job, and I thank him for his efforts.

Mr. SESSIONS. I thank the Senator. I would note that there are only nine legislative days between now and the time the hearing starts, so we are definitely in a position where it is going to be difficult to be as prepared as we would like to be when this hearing starts. We still don't have some of the materials we need.

My staff and I have been working hard to survey the writings and records of Judge Sotomayor.

Certainly, the constitutional duty of the Senate to consent to the President's nomination is a very serious one. In recent years, we have seen judicial opinions that seem more attuned

to the judge's personal preferences than to the law, and it has caused quite a bit of heartburn throughout the country. We have seen judges who have failed to understand that their role, while very important, is a limited one. The judge's role is not policy, politics, ethnicity, feelings, religion, or personal preference because whatever those things are, they are not law, and first and foremost a judge personifies law. That is why lawyers and judges, during court sessions—and I practiced hard in Federal court for all of 15 years, so I have been in court a lot—when they go to court, they do not say even the judge's name and usually don't even say ''judge.'' They refer to the judge as ''the Court.'' They say, ''If the Court please, I would like to show the witness a statement,'' or a judge may write, ''This Court has held,'' and it may be what he has written himself, or she. All of this is to depersonalize, to objectify the process, to clearly establish that the deciding entity has put on a robe—a blindfold, according to our image—and is objective, honest, fair, and will not allow personal feelings or biases to enter into the process.

So the confirmation process rightly should require careful evaluation to ensure that a nominee—even one who has as fine a career of experience as Judge Sotomayor—meets all the qualities required of one who would be situated on the highest Court. As this process unfolds, it is important that the Senate conduct its evaluation in a way that is honest and fair and remember that a nominee often is limited in his or her ability to answer complaints against them.

So the time is rapidly approaching for the hearings—only nine legislative days between now and July 13—and there are still many records, documents, and videos not produced that are important to this process.

My colleagues and friends are asking: What have you found? What evaluations have you formed? What are your preliminary thoughts? And I have been somewhat reluctant to discuss these matters at this point in time, as we continue to review the record. In truth, the confirmation process certainly must be conducted with integrity and care, but it is not a judicial process, it is a political process. The Senate is a political, legislative body, not a judicial body, and it works its will. Its Members must decide issues based on what each Member may conclude is the right standard or the right beliefs.

I have certainly not formed hard opinions on this nominee, but I have developed some observations and have found some relevant facts and have some questions and concerns. It is clear to me that several matters and cases must be carefully examined because they could reveal an approach to judging that is not acceptable for a nominee, in my opinion. I see no need not to raise those concerns now. Discussing them openly can help our Senate colleagues get a better idea of what the issues are, and the public, and the nominee can see what the questions are now, before the hearings start. Unfortunately, the record we have is incomplete in key respects, and it makes it difficult for us to prepare.

As I review the record, I am looking to try to find out whether this nominee understands the proper role of a judge, one who is not looking to impose personal preferences from the bench. Frankly, I have to say—to follow up on Senator MCCONNELL's remarks—I don't think I look for the same qualities in a judge that the person who nominated her does—President Obama. He says he wants someone who will use empathy—empathy to certain groups to decide cases. That may sound nice, but empathy toward one is prejudice toward the other, is it not? There are always litigants on the other side, and they deserve to have their cases decided on the law. And whatever else empathy might be, it is not law. So I think empathy as a standard, preference as a standard is contrary to the judicial oath. This is what a judge declares when they take the office:

> I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me.

So I think that is the impartial ideal. That is the ideal of the lady of justice with the scales and the blindfold, which we have always believed in in this country and which has been the cornerstone of American jurisprudence.

So what I have seen thus far in Judge Sotomayor's record—and presumably some of her views are the reason President Obama selected her—cause me concern that the nominee will look outside the law and the evidence in judging and that her policy preferences could influence her decisionmaking. Her speeches and writings outside the court are certainly of concern, some of which Senator MCCONNELL mentioned.

I wish to discuss some other areas that I think are significant also. She has had extensive work with the Puerto Rican Legal Defense and Education Fund and been a supporter, presumably, of what it stands for. So that is one of the matters I will discuss a bit here. Also, I will discuss her decision to allow felons, even those convicted and in jail, the right to vote, overruling a long-established State law. Some other matters I will discuss include the New Haven firefighters case.

Looking at the long association the nominee has had with the Puerto Rican Legal Defense and Education Fund—an organization that I have to say, I believe, is clearly outside the mainstream of the American approach to matters—this is a group that has taken some very shocking positions with respect to terrorism. When New York Mayor David Dinkins criticized members of the radical Puerto Rican nationalist group and called them ''assassins'' because they had shot at Members of Congress and been involved in, I guess, other violence, the fund, of which judge Sotomayor was a part, criticized the mayor and said they were not assassins and said that the comments were ''insensitive.''

The President of the organization continued, explaining that for many people in Puerto Rico, these men were fighters for freedom and justice.

I wonder if she agreed with that statement and that the statements of the mayor of New York were insensitive. These Puerto Rican nationalists reconstituted into groups such as the FALN, which we have recently had occasion to discuss in depth. The FALN itself was responsible for more than 100 violent attacks resulting in at least 6 deaths. I find it ironic that once again we find ourselves discussing these murderous members of FALN, when not long ago we were considering whether to confirm Attorney General Eric Holder, who was advocating pardoning them and President Clinton did. Now we find ourselves wondering about this nominee to the Court and what her views are on these matters and how her mind works as she thinks about these kinds of issues.

We do not have enough information, unfortunately, to assess these concerns effectively. We requested information relating to Judge Sotomayor's involvement with the fund, a typical question of all nominees but critically important for a Supreme Court nominee. But we have not received information. Indeed, we have received 9 documents totaling fewer than 30 pages relating to her 12 years with the organization. So it is not possible for us to make an informed decision at this point on her relationship with an organization that seems to be outside the mainstream.

What we know, basically, is from publicly available information, and what has been provided this committee, is that this is a group that has, time and again, taken extreme positions on vitally important issues such as abortion. In one brief, which was in support of a rehearing petition in the U.S. Supreme Court, a brief to the Supreme Court, the Fund criticized the Supreme Court's decision in two cases that both the State and Federal Government should restrict the use of public funds for abortion—the question of public funding of abortion.

Incredibly, the Fund joined other groups in comparing these types of funding restrictions to slavery, stating:

> Just as Dred Scott v. Sanford refused citizenship to Black people, these opinions strip the poor of meaningful citizenship under the fundamental law.

In their view, the equal protection clause of the U.S. Constitution prohibited restrictions on either Federal or State Government provision of funding abortions.

I think this is an indefensible position. We do not know how much Judge Sotomayor had to do with developing these positions of the Fund—but certainly she was an officer of it, involved

in the litigation committee during most of this time—because we do not have the information we requested.

We do know the Fund and Judge Sotomayor opposed reinstatement of the death penalty in New York based not on the law but on what they found to be the inhuman psychological burden it places on criminals, based on world opinion, and based on evident racism in our society. What does this mean about how Judge Sotomayor would approach death penalty cases? I think she has affirmed death penalty cases, but on the Supreme Court, there is a different ability to redefine cases. These personal views of hers could very well affect that.

Recently, five Justices of the Supreme Court decided, based in part on their review of rulings of courts of foreign countries, that the Constitution says the United States cannot execute a violent criminal if he is 17 years and 364 days old when he willfully, premeditatedly kills someone. They say the Constitution says the State that has a law to that effect cannot do it.

Looking to ''evolving standards of decency that mark the progress of a maturing society''—this is what the Court said, as they set about their duty to define the U.S. Constitution; this is five Members of the Supreme Court, with four strong dissents: looking to ''evolving standards of decency that mark the progress of a maturing society,'' we conclude the death penalty in this case violated the eighth amendment.

There are at least six or eight references in the Constitution to a death penalty. If States don't believe 18-year-olds should be executed, or 17, they should prohibit it and many States do. But it is not answered by the Constitution. But five judges did not like it. They consulted with world opinion and what they considered to be evolving standards of decency and said the Constitution prohibited the imposition of a death penalty in this case, when it had never been considered to be so since the founding of our Republic. I don't think that is a principled approach to jurisprudence. That is the kind of thing I am worried about if we had another judge who will think like that on the bench.

I will ask about some other cases, too, that give me pause. For centuries States and colonies, even before we became a nation, have concluded that individuals who commit serious crimes, felonies, forfeit their right to vote, particularly while they are in jail. It is a choice that States can make and have made between 1776 and 1821. Eleven State constitutions contemplated preventing felons from voting. New York passed its first felon disenfranchisement law in 1821. When the 14th amendment was adopted in 1868, 29 States had such provisions. By 2002, all States except Maine and Vermont disenfranchised felons. For years, these types of laws have been upheld by the courts against a range of challenges. But in Hayden v. Pataki, in 2006, Justice Sotomayor stated her belief that these types of laws violate the Voting Rights Act of 1965, even though that act makes no reference to these long-standing and common State laws and even though they are specifically referenced in the fourteenth amendment to the Constitution itself.

In her view, with analysis of a few short paragraphs only, the New York law was found—or she found—she concluded that the New York law was ''on account of race,'' and therefore it violated the Voting Rights Act.

It was ''on account of race'' because of its impact and nothing more. Statistically, it seems that in New York, as a percentage of the population, more minorities are in jail than nonminorities. Therefore, it was concluded that this act was unconstitutional. I think this is a bridge too far. It would mean that State laws setting a voting age of 18 would also violate Federal law because, within the society or in most of our country, minorities would have more children under 18 so that would have a disparate impact on them.

I do not think this can be the law, as a majority of the colleagues on that Court explained, and did not accept her logic. Actually, her opinion was not upheld.

I look forward to asking her about that. I am aware that Judge Sotomayor would say she is acting as a strict constructionist by simply applying literally the 40-year-old Voting Rights Act of 1965. I do not think so. I remember when Miguel Estrada, that brilliant Hispanic lawyer whom President Bush nominated to the appellate courts and who was defeated after we had seven attempts to shut off a filibuster on the floor of the Senate but could never do so, said during his hearings that he didn't like the term ''strict construction.'' He preferred the term ''fair construction.''

He was correct. So the question is, Is this a fair construction of the Voting Rights Act, that it would overturn these long-established laws when no such thing was considered in the debate on the legislation? That historic laws, which limit felons voting, are to be wiped out, even allowing felons still in jail to vote? I do not think so and neither did most of the judges who have heard these cases.

With regard to the New Haven firefighters case, I will say we will be looking into that case in some length. Stuart Taylor did a very fine analysis of it when he was writing, I believe, at the National Journal. He recognized that no one ever found that the examination these firefighters took was invalid or unfair. As he has explained, if the ''belated, weak, and speculative criticisms—obviously tailored to impugn the outcome of the tests—are sufficient to disprove an exam's validity or fairness, no test will ever withstand a disparate-impact lawsuit. That may or may not be Judge Sotomayor's objective. But it cannot be the law,'' says Mr. Stuart Taylor in his thoughtful piece. The firefighters, you see, were told there was going to be a test that would determine promotion, that it would determine eligibility for promotion. The tests were given at the time stated and the rules had been set forth. But the rules were changed and promotions did not occur because the Sotomayor court, in a perfunctory decision, concluded that too many minorities did not pass the test, and no finding was made that the test was unfair. We will be looking at that and quite a number of other matters as we go forward.

I will be talking about the question of foreign law and the question of this nominee's commitment to the second amendment, the right to keep and bear arms. The Constitution says the right to keep and bear arms shall not be infringed. We will talk about that and some other matters because, once on the Court, each Justice has one vote. It only takes five votes to declare what the Constitution says. That is an awesome power and the judges must show restraint, they must respect the legislative body, they must understand that world opinion has no role in how to define the U.S. Constitution, for heaven's sake. Neither does foreign law. How can that help us interpret the meaning of words passed by an American legislature?

Oftentimes, world opinion is defined in no objective way, just how the judge might feel world opinion is. I am not sure they conduct a world poll, or what court's law do they examine around the world to help that influence their opinion on an American case?

This is a dangerous philosophy is all I am saying. It is a very serious debate. There are many in law schools who have a different view: there is an intellectual case out there for an activist judiciary or a judiciary that should not be tethered to dictionary definitions of words. Judges should be willing and bold and take steps to advance the law they would set and to protect this or that group that is favored at this or that time.

I think that is dangerous. I think it is contrary to our heritage of law. I am not in favor of that approach to it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MENENDEZ. Madam President, today on the floor some of my colleagues have begun their attacks on President Obama's historic and incredibly qualified nominee to the Supreme Court, Judge Sonia Sotomayor. They clearly decided, for ideological reasons, that they were going to oppose whoever President Obama appointed before

the hearings even started. We have heard people try to attach a lot of labels to Judge Sotomayor over the past few weeks, but it has become clearer and clearer as we look hard at Judge Sotomayor's record and vast experience that attacking this nominee is like throwing rocks at a library. It is uncalled for and it doesn't accomplish anything. Her opponents are grasping at straws, because it turns out we have before us one of the most qualified, exceptional nominees to come before this Senate in recent history.

Let there be no doubt: Sonia Sotomayor's nomination to be a Justice to the Supreme Court is a proud moment for America. It is proof that the American dream is in reach for everyone willing to work hard, play by the rules, and give back to their communities, regardless of their ethnicity, gender, or socioeconomic background. It is further proof of the deep roots the Hispanic community has in this country.

But let's be clear: We get to be proud of this nominee because she is exceptionally qualified. We get to be proud because of her vast knowledge of the law, her practical experience fighting crime, and her proven record of dedication to equal justice under the law. Those are the reasons we are proud. Those are the reasons she should be confirmed without delay.

We should not be hearing any suggestions that we need infinitely more time to discuss this nomination. It should move as promptly as the nomination of John Roberts, and that is exactly what we are going to do.

A little while ago at a press conference, we heard from prominent legal and law enforcement organizations that explained how the people who have actually seen her work know her best: as an exemplary, fair, and highly qualified judge. They came from across our country, from Florida to Texas, Nebraska, and my home State of New Jersey. They shed light on how important her work has been in the fight against crime, how her work as a prosecutor put the ''Tarzan murderer'' behind bars, how as a judge she upheld the convictions of drug dealers, sexual predators, and other violent criminals. And they made it clear how much they admire her strong respect for the liberties and protections granted by our Constitution, including the first amendment rights of people she strongly disagreed with.

Judge Sotomayor's credentials are undeniable. After graduating at the top of her class at Princeton, she became an editor of the law journal at Yale Law School, which many consider to be the Nation's best. She went to work in the Manhattan district attorney's office, prosecuting crimes from murder to child abuse to fraud, winning convictions all along the way.

A Republican President, George H.W. Bush, appointed her to the U.S. District Court in New York, and a Democrat, Bill Clinton, appointed her to the U.S. Court of Appeals. She was confirmed by a Democratic majority Senate and then a Republican majority Senate. Her record as a judge is as clear and publicly accessible as any recent nominee and clearly shows modesty and restraint on the bench.

She would bring more judicial experience to the Supreme Court than any Justice in 70 years, and more Federal judicial experience than anyone in the past century. Her record and her adherence to precedent leave no doubt whatsoever that she respects the Constitution and the rule of law.

Judge Sotomayor's record has made it clear that she believes what determines a case is not her personal preferences but the law. Her hundreds of decisions prove very conclusively that she looks at what the law says, she looks at what Congress has said, and she looks above all at what precedent says. She is meticulous about looking at the facts and then decides the outcome in accordance with the Constitution.

On top of that, Judge Sotomayor's personal background is rich with the joys and hardships that millions of American families share. Her record is proof that someone can be both an impartial arbiter of the law and still recognize how her decisions will affect people's everyday lives.

I think it says something that the worst her ideological opponents can accuse her of is being able to understand the perspective of a wide range of people whose cases will come before her.

Judge Sotomayor deserves nothing less than a prompt hearing and a prompt confirmation. As the process moves forward, I plan to come back to the floor as often as is necessary to rebut any baseless attacks leveled at this judge.

It fills me with pride to have the opportunity to support President Obama's groundbreaking nominee, someone who is clearly the right person for a seat on the highest Court of the land.

It is an enormous joy to be reminded once again that in the United States of America, if you work hard, play by the rules, and give back to your community, anything is possible.

Madam President, with that, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m. recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, what is the status of the Senate at the present time?

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

FOOD SAFETY RAPID RESPONSE ACT OF 2009

Mr. CHAMBLISS. Mr. President, I rise today to talk for a few minutes about the Food Safety Rapid Response Act of 2009. I do this in conjunction with my colleague from the State of Minnesota, Senator KLOBUCHAR. I recognize her first for her strong leadership on this legislation. She and I both are a member of the Senate Committee on Agriculture, Nutrition, and Forestry. On that committee, she has been extremely active, and on this particular issue we have had the opportunity to dialog on any number of occasions. Thanks to her cooperation and her leadership, we have developed and are cosponsoring the Food Safety Rapid Response Act of 2009, which is designed to improve foodborne illness surveillance systems on the Federal, State, and local level, as well as improve communication and coordination among public health and food regulatory agencies.

In the wake of the recent salmonella outbreak at the Peanut Corporation of America in my home State of Georgia, the Senate Agriculture Committee held a hearing to review the response from the Centers for Disease Control and Prevention and the Food and Drug Administration. The mother of a victim of the outbreak testified at the hearing and shared her personal story and frustrations in dealing with numerous Federal bureaucracies over this issue.

This hearing brought to light a clear need to develop a more effective national response to outbreaks of foodborne illness, especially in the area of coordination among public health and food regulatory agencies, to share findings and develop a centralized database. The Food Safety Rapid Response Act of 2009 will expedite much needed improvements to identify and respond to foodborne illnesses throughout the country.

Key components of this legislation include the following: First, directing the CDC to enhance the Nation's foodborne disease surveillance system by improving the collection, analysis, reporting, and usefulness of data among local, State, and Federal agencies, as well as the food industry; second, directing the CDC to provide support and expertise to State health agencies and laboratories for their investigations of foodborne disease. This includes promoting best practices for food safety investigations. And, third, establishing regional food safety centers of excellence at select public health departments and higher education institutions around the country to provide increased resources, training, and coordination among State and local personnel.

Both Senator KLOBUCHAR and I are very proud of the excellent work done at universities in our respective home States in the area of food safety and epidemiology.

The University of Georgia is home to the world-class Center for Food Safety

which has for more than 17 years assisted the CDC with foodborne disease outbreak investigations.

The University of Georgia Center for Food Safety is known for its leadership in developing new methods for detecting, controlling, and eliminating harmful microbes found in foods and is the go-to organization for the CDC, FDA, and the food industry when seeking solutions to difficult food safety issues.

The Center for Food Safety frequently provides FDA, CDC, and State health departments advice and assistance in isolating harmful bacteria, such as salmonella and E. coli O157 from foods.

I am hopeful the Food Safety Response Act of 2009 will be considered as part of comprehensive food safety legislation in the months ahead. Both Senator KLOBUCHAR and myself are cosponsors of the FDA Food Safety Modernization Act, a bipartisan measure to enhance current Food and Drug Administration authority to better protect our Nation's food supply.

Whether produced domestically or imported, Americans must be able to trust that the food sold in their grocery stores and restaurants is safe and secure. It is critical to ensure that the Food and Drug Administration has the tools it needs to properly monitor and inspect the food that is consumed in this country.

The FDA Food Safety Modernization Act affords regulators the authority they need to better identify vulnerabilities in our food supply while maintaining the high level of food safety most Americans enjoy and take for granted.

The legislation calls for an increase in the frequency of FDA inspections at all food facilities, grants the FDA expanded access to records and testing results, and authorizes the FDA to order mandatory recalls should a private entity fail to do so voluntarily upon the FDA's request.

The Food Safety Modernization Act strikes an appropriate balance for the various roles of Federal regulators, food manufacturers, and our Nation's farmers to ensure that Americans continue to enjoy the safest food supply in the world. America's farmers are committed to providing the safest food possible to their customers and have a decades-long history of implementing food safety improvements to prevent both deliberate and unintentional contamination of agricultural products as they make their way from the farm to the retail store or to a restaurant. However, we must also be realistic in our expectations. Food is grown in dirt, and as a result a zero-risk food supply will be impossible to achieve. It is a goal that we must strive for, while at the same time being ever mindful of the realities of food production and the detrimental consequences of applying unreasonable demands on our producers or our farmers.

As the Congress updates our food safety laws, there will be indepth deliberations about specific provisions related to all aspects of food safety, such as product tracing, third-party audits, and facility inspections. As we tackle each of these issues, a few principles must guide our decisions.

First, regulation and inspections must be science and risk based. Relying on science- and risk-based analysis will focus our efforts and resources to vulnerable aspects of our food supply instead of developing a regime that only establishes more redtape, burdensome recordkeeping, or Federal intrusion.

Second, it is important to provide protections against unreasonable demands for records, as well as provide for protections against unauthorized disclosure of proprietary or confidential business information which the agency gains when reviewing the contents of written food safety plans and other records.

Finally, FDA's food safety functions should be funded through Federal appropriations as opposed to registration fees that go into a general fund that may or may not be used to enhance inspections. Costly user fees or flat facility registration fees applicable to all types and sizes of facilities should not be considered. Such fees pose questions of equity, particularly for small businesses that consume a negligible share of FDA resources.

An effective public-private partnership is critical to ensuring a safe food supply. The private sector has the responsibility to follow Federal guidelines and ensure the safety of their products. The Federal and State governments have the responsibility to oversee these efforts and take corrective actions when necessary. We need to have the ability to quickly identify gaps in the system and act swiftly to correct them. Both the Food Safety Rapid Response Act and the FDA Food Safety Modernization Act are important measures to achieve that goal.

Again, Mr. President, I commend the Senator from Minnesota. It has been a privilege to work with her to this point. I look forward to continuing to move this legislation in a positive direction and in a short timeframe so that we can make sure we are giving all of our oversight personnel and our regulators the proper authority and the resources with which to do their job.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

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

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

Ms. KLOBUCHAR. Mr. President, I am proud to stand here today with Mr. CHAMBLISS, the Senator from Georgia, in speaking out in favor of our bill to bring food safety to this country. It is interesting that we introduced this bill together because, of course, this latest outbreak that got so much attention nationally with the Peanut Corporation of America started in Georgia. No one knew that at the time as people got sick across the country, and it ended in Minnesota where, after three deaths in my State, it was the Minnesota Department of Health and the University of Minnesota working together that once again solved the problem, figuring out where the salmonella was coming from.

Today a Republican Senator from Georgia and a Democratic Senator from Minnesota have come together to introduce this bill to say we want to do everything we can to prevent this from happening in the first place. That is why we both support the FDA bill. But it is also to say, when it does happen, we want to catch things as soon as possible so we have less people who get sick, less people who die, and a lot of that has to do with best practices. I am proud to stand with the Senator from Georgia today.

This past week, our country saw another food recall due to the outbreak of E. coli caused by refrigerated cookie dough manufactured by Nestle. The outbreak has sickened at least 65 people in 29 States, and it is the latest in a series of foodborne outbreaks in the last 2 years, or at the least, the outbreaks we know of since many cases of foodborne illness are never reported or those that are reported are never linked to an identifiable common source.

In the spring and summer of 2007, as you may recall, hundreds of people across the country were getting sick from salmonella. The source was ultimately traced to jalapeno peppers imported from Mexico.

Last fall, hundreds of people, as we just talked about, across the country again fell ill to salmonella. Again, this was traced back to the peanut butter processing plant in Georgia. In the meantime, nine people died from salmonella poisoning, three of them in my home State of Minnesota.

In both of these outbreaks, more than half of the people who got sick or died did so before there was any consumer advisory or recall. Half of these people got sick or died before there was a consumer advisory or recall. In the case of the jalapeno peppers, people had been getting sick for almost 2 months before the advisory was issued about tomatoes, the original suspect, which turned out to be incorrect, hurting that industry. It was nearly 3 months before the first illness was reported in Minnesota, and then, once again, solved in Minnesota.

In the case of the peanut butter, people were getting sick for 3 months before the first illness was reported in my home State. For 3 months people got sick all across the country, and it was only when they got sick or died in Minnesota that it got solved.

We have to fix this situation. I am proud of my State. I am proud it was able to catch these two major food outbreaks. But we have to be doing it in other places as well.

The breakthrough in identifying the sources of contamination did not come from the Centers for Disease Control, despite their good work. It did not come from the Food and Drug Administration. It did not come from the National Institutes of Health. The breakthrough came from the work of the Minnesota Department of Health and the Minnesota Department of Agriculture, as well as a collaborative effort with the University of Minnesota School of Public Health. This initiative has earned a remarkable national reputation.

With all due respect to their exemplary work, the Nation should not have to wait until someone from Minnesota gets sick or dies from tainted food before there is an effective national response to investigate and identify the causes. The problem is that the responsibility to investigate potential foodborne diseases rests largely with local and State health departments, and that is OK, if it worked everywhere the way it does in Minnesota. There is tremendous variation from State to State in terms of the priority and the resources they dedicate to this responsibility.

In Minnesota, it is a high priority, and we have dedicated professionals who have developed sophisticated procedures for detecting, investigating, and tracking cases of foodborne illnesses.

The peanut butter salmonella outbreak was so extensive and so shocking that it has finally put food safety on the agenda in Washington. It is a crowed agenda, as we all know, but food safety must be there.

In March, I joined with a bipartisan group of Senators to introduce the Food Safety Modernization Act of 2009, which would overhaul the Federal Government's food safety system. Other cosponsors are Senators DICK DURBIN, JUDD GREGG, TED KENNEDY, RICHARD BURR, CHRIS DODD, LAMAR ALEXANDER, and SAXBY CHAMBLISS.

This legislation is a comprehensive approach to strengthening the Food and Drug Administration's authority and resources. But I believe there is still much more that can and should be done. That is why, along with Senator CHAMBLISS, I have introduced the Food Safety Rapid Response Act. This legislation focuses on the Centers for Disease Control, as well as State and local capabilities, for responding to foodborne illness. It has three main provisions.

First, it would direct the Centers for Disease Control to enhance foodborne surveillance systems to improve the collection, analysis, reporting, and usefulness of data on foodborne systems. This includes better sharing of information among Federal, State, and local agencies, as well as with the food industry and the public. It also includes developing improved epidemiology tools and procedures to better detect foodborne disease clusters and improve tracebacks to identify the contaminated food products.

I can tell you, our State is proud to be the home of Hormel, Schwan's, Land O'Lakes, General Mills, and many other food processing companies, and they are eager to help because oftentimes they know the best way to trace back these foodborne illnesses. They want to have safe food and they are interested in helping.

Second, it would direct the Centers for Disease Control to work with State level agencies to improve foodborne illness surveillance. This includes providing support to State laboratories and agencies for outbreak investigations with needed specialty expertise. It also includes—and this is key—developing model practices at the State and local levels for responding to foodborne illnesses and outbreaks.

This is about the Minnesota model, these best practices. What happens in Minnesota, I will tell you—and I will bet it is as expensive in some other States, but what we do is smart. We take a team of graduate students—sort of food detectives—and they work together. Instead of having it go all over the State to a county nurse in one county and someone else in another county, this group of graduate students, working under the supervision of doctors and people who are professionals in this area, literally calls all at once. They work next to each other and they call people who have been sick or who are sick and that way, at one moment in time, they are able to immediately figure out what the people were eating and where the food came from. There are sophisticated laboratory techniques that go on everywhere, but what works here is this teamwork with graduate students.

Finally, this legislation would establish Food Safety Centers of Excellence. The goal is to set up regional food safety centers at select public health departments and higher education institutions. These collaborations would provide increased resources, training, and coordination for State and local officials so that other States can be doing exactly what Minnesota does. In particular, they would seek to distribute food safety best practices such as those that have become routine in my State.

Dr. Osterholm, at the University of Minnesota, is a national food safety and disease expert. Many of you may have seen him featured nationally with the latest H1N1 flu outbreak. He is credited with the creation of the Minnesota program. He has said that the creation of regional programs modeled on Minnesota would go a long way to providing precisely the real-time support for outbreak investigations at the State and local levels that is so sorely needed.

No one believes we are going to be able to do this all out of Washington. That is why we simply have to upgrade the places that our States are using, so when there is an outbreak we don't have to wait for people to get sick or die in Minnesota to solve these problems.

The recent outbreaks have shaken our confidence and trust in the food we eat. According to the Centers for Disease Control, foodborne disease causes about 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths in the United States each year. Yet for every foodborne illness that is reported, it is estimated that as many as 40 more illnesses are not reported or confirmed by a lab.

The annual cost of medical care, lost productivity, and premature deaths due to foodborne illnesses is estimated to be $44 billion. So there is a lot at stake, both in terms of life and money. I believe we can do so much better. I believe it because I have seen it in my State.

Senator CHAMBLISS, from the State of Georgia, where this latest outbreak occurred, believes it because he has seen the devastation to an industry's own State, where when you have one bad actor and then it gets out there and more people get sick and die, it doesn't help anyone in this country. The tragedy of so many families—three in my own State—hurts tremendously. So we know we can do better, and that is why we are introducing this bill on a bipartisan basis.

As a former prosecutor, I have always believed the first responsibility of government is to protect its citizens. When people get sick or die from contaminated food, the government must take aggressive and immediate action. I believe that together the Food Safety Rapid Response Act and the Food Safety Modernization Act will strengthen food safety in America and ultimately save both lives and money.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

TRIBUTE TO COLONEL RAMON M. BARQUIN

Mr. MARTINEZ. Mr. President, it gives me great pleasure to honor an individual who lived in pursuit of a free Cuba and a better America, COL Ramon M. Barquin, who died at the age of 93 on March 3, 2008.

Colonel Barquin was an accomplished military leader, an educator, a diplomat, and an entrepreneur. Although Cuba was his native home, he made our Nation a better place during the years he lived in exile.

Ramon Barquin was born in Cienfuegos, Cuba, on May 12, 1914. At the age of 19, he joined the Cuban army, served his country, and graduated from the Cuban Military Academy in 1941. During his years of military service, Colonel Barquin attended various U.S. Army schools here in the United States. Following a distinguished career in the military, Colonel Barquin found his passion in military education.

In the classroom, he worked to instill a culture of civic awareness within the military's ranks, founded the Cuban National War College, and eventually

was promoted to director of Cuba's military schools. Following his career in Cuban military education, Barquin was appointed as Cuba's military attache to the United States and delegate to the Inter-American Defense Board, where he was elected vice chair and led the team that developed the plan for a joint defense of the Western Hemisphere. For his work, Colonel Barquin was honored in 1955 by our government with the Legion of Merit, Grade of Commander.

While serving as attache, he learned of the shifting political winds in Cuba and conspired to prevent freedom from losing a foothold in his native land. I can remember as a young boy in Cuba living through tumultuous times. But I also remember my father often remarking that in Colonel Barquin, Cuba had its best hope for democracy.

It was the colonel's concerns that led him to participate in a failed military revolt against the Batista dictatorship and later to actively work against Castro's totalitarian regime. When Castro came to power, he asked Barquin to serve as defense minister. Concerned with the regime's repressive nature, Colonel Barquin refused and instead chose to serve in an ambassadorial post in Europe. As a result of that, he was able to flee to the United States and begin a new life, now in exile.

After briefly living in Miami, Barquin rekindled his passion for education by establishing a consortium of educational institutions in Puerto Rico. They included a K–12 school called the American Military Academy, summer camps, a university—Atlantic College—and an institute for civic education known as Instituto de Democratica. He was recognized for his hard work and enterpreneurism by the Puerto Rican government as the 1995 Educator of the Year.

Graduates of the K–12 academy he founded had kind words of appreciation for the colonel's work and character. One student remarked: ''From the Colonel, I learned to love my country and he taught me the values that lead my life today.''

As a Cuban American, a Floridian, and a Senator, it gives me great pleasure to pay tribute to an individual with a legacy as awe inspiring as that of COL Ramon M. Barquin. His unwavering commitment to freedom and democracy, his generosity, and his zeal for serving others is, and will be, sorely missed.

I also know that probably one of his proudest accomplishments was a wonderful family. I am privileged to know his son Ramon, who also carries his name, and also some of his grandchildren. I know that is, without a doubt, what I am sure he feels was his greatest legacy while he lived among us. I know that history would have been very different if he had had an opportunity to follow through on some of his ideas and some of his hopes.

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

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

The assistant bill clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Mr. President, I rise to speak to my colleagues on two issues this afternoon. One is the nomination of Judge Sotomayor to the U.S. Supreme Court and the second is on the public option in health care.

SOTOMAYOR NOMINATION

Mr. SCHUMER. Mr. President, several of my colleagues across the aisle have come to the floor to attack Judge Sotomayor's nomination to the Supreme Court. I must say, I think these attacks are entirely misplaced. I have always had a consistent standard for evaluating judicial nominees. I use it when voting for them. I use it when joining in, in the nomination process. I did under President Bush and continue to under President Obama. Those three standards are excellence, moderation, and diversity.

I am confident Judge Sotomayor meets these criteria. Based on my review thus far of her lengthy and impressive record on both the district court and court of appeals, her impressive career in both public and private sectors, and her stellar academic credentials.

I have also been deeply impressed with her personal story, a true story of an American dream. She pulled herself up from the projects in the Bronx to stand before this body as a nominee to the highest Court in the land. Her history is truly inspirational, a history of which we should all be extremely proud. It is a great American story. It is what the greatness of America is all about, as my friend from New Jersey said earlier.

I think some of the comments I have heard from my Republican colleagues this morning have distorted Judge Sotomayor's distinguished record, so let's take a minute to consider what the real story is and how Judge Sotomayor's record reflects the highest ideals of judging.

Judge Sotomayor's record reveals her to be both modest and moderate, dedicated to the rule of law and not outcome oriented.

For example, Senator SESSIONS spent some of his time this morning criticizing one particular case, Hayden v. Pataki, about felon disenfranchisement—because Judge Sotomayor's dissent would have resulted in an outcome with which he did not agree. He neglected to mention that her opinion was based on the plain text of the statute before the court and he also left out some of the key, revealing comments she made in her dissent:

No one disputes that States have the rights to disenfranchise felons;

No. 2:

The duty of a judge is to follow the law, not question its plain terms;

And No. 3:

I trust that Congress would prefer to make any needed changes itself rather than have the courts do so for it.

These are the kind of statements, in the very case my good friend from Alabama uses to criticize the judge, that we have heard from people on the other side of the aisle over and over as to what a judge should do: Not replace his or her own judgment for that of a legislature or that of the law.

Judge Sotomayor was following text to a result, not the other way around. These quotes tell us a lot more about Judge Sotomayor's judicial philosophy and commitment to rule of law than simply looking at the outcome in any particular case. Even when we look at outcomes, the entirety of her record gives us a more accurate picture of her judicial philosophy than the outcome of any one case. She rejected discrimination claims in 81 percent of the cases she considered, and in those 78 cases rejecting discrimination claims she dissented from the panel she was on only twice.

When my office looked at her record on immigration cases she sided with the immigrant in asylum cases only 17 percent of the time. That is average for the entire Second Circuit. This should put to rest any notion she is swayed by outcomes rather than by law.

Obviously, she sympathizes with the immigrant experience, that has been clear. But she does not let those sympathies stand in the way of her judging what the law says and mandates. So she is clearly not a judicial activist, someone who reaches beyond the proper role of a judge to impose her personal preferences.

I think it is about time to debunk the notion of judicial activism, as some are using. I think that judicial activism is starting to become code for many of my friends on the other side of the aisle for ''decisions with outcomes with which I don't agree.'' When they say judicial activist, they are not looking at how close or far from the law. They are, rather, looking at: Well, I didn't agree with the ultimate decision.

That is why I prefer to use the term ''modest'' in describing my ideal judge. It was a term that was used by Justice Roberts when he was before us.

I will quote from the Federalist Papers as some of my colleagues have done. In Federalist No. 78, the primary source for justification for judicial review in the Constitution, Alexander Hamilton explains the role of a judge very simply: A judge must interpret the Constitution, interpret the laws, and when there is ''irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred.''

An ''irreconcilable variance''—that imposes a high bar on any judge who is tempted to strike down a law or a practice or any decision by a legislature or

executive as unconstitutional. This is, by the way, exactly the standard Judge Sotomayor lived up to in Ricci, when she deferred to the elected local official in New Haven and to Federal title VII law and to firm Second Circuit precedent.

It has always been my view that a commitment to modesty is key in a judge. A judge who is modest understands that any concept of doing justice must have as its touchstone the meaning that the authors of the text intended to give it.

I also believe it is consistent with judicial modesty to acknowledge that our Constitution is written to endure. It does not live and breathe like a flesh-and-blood child does, who evolves through adolescence and adulthood to become unrecognizable.

I don't believe in using those terms. Rather, the Constitution endures. It endures because the people whom it governs, the people who retain all of the many rights that are not listed in the document itself, believe that it continues to apply to them. The only reason it continues to apply to them is through guardianship of judges who are modest in reaching their conclusions. They understand that people have to live by the Court's interpretation and judgment. They understand that people want justice and that justice means predictability, adherence to text, and the willingness to avoid patently absurd results.

I am looking forward to the confirmation hearing of Judge Sotomayor. She is a gifted lawyer, she is a respected and serious jurist, and her life experiences will only serve to enrich the views of the eight other justices, each of whom brings with him or her individual lessons, lessons taught by a hard-working grandfather in Pinpoint, GA; by an independent, studious-minded mother who died the day before her daughter graduated high school; by a hotel owner in Chicago, IL; or by a single Spanish-speaking mother who told her daughter that she could do anything through hard work and a good education.

Let's be reasonable and realistic. These experiences do not turn a good judge into a bad one or who is not an impartial one or whatever my colleagues on the other side of the aisle are suggesting.

To recognize the role of personal experience is simply to acknowledge that in the art and science of interpreting the Constitution and laws of our country we have to ask ourselves the following questions: Do we trust more the decisions of judges who, as I have said before, have ice water in their veins, who view their role as stripping themselves of their pasts and ruling in a vacuum, free of human experience and common sense, or do we trust more the decisions of judges who acknowledge and address their own life experiences even while striving always to be fair and within the law—as Judge Sotomayor herself has said?

These are questions I look forward to discussing at Judge Sotomayor's upcoming hearing.

HEALTH CARE

Mr. SCHUMER. Mr. President, I rise to discuss the necessity of including a public option in the health care legislation Congress is currently drafting. One of our top priorities, as we undertake health care reform, must be increasing competition among health insurance companies in order to get costs under control and give consumers better choices. A recent New York Times/CBS poll clearly shows that a large majority of the American people, 72 percent in fact, want a government-sponsored health care option that would compete with private health insurance companies—72 percent.

What is even more incredible, 50 percent of all Republicans in this country want a public option. There seems to be a disconnect between my colleagues on the other side of the aisle and even their Republican constituents.

Do you know why so many Americans want a public plan? Because, despite what many of my colleagues on the other side of the aisle would have you believe, they do not believe they have affordable choices. Fundamentally, this is what lies at the heart of our public plan proposal. We want to ensure all Americans have a guaranteed affordable choice when it comes to health insurance. Right now, too many of them do not.

In many areas of the country, one or two insurers have a stranglehold on the entire market, which produces costly premiums and health care decisions that often serve the interests of the insurer, not the patient. In fact, according to a study of the American Medical Association, 94 percent of insurance markets are highly concentrated. This is why a public health insurance plan is absolutely critical, to ensure the greatest amount of choice possible for consumers and provide at least one option that is patient—not profit—focused.

When you read what percentage one insurance company or two insurance companies have of a market in each State, you know that robust competition is missing from the health care market. That is why so many people are worried about the future of the plans that they now have.

The public plan is not about government-controlled health care, socialism or any of the buzz words that have been tossed around as part of this debate.

I ask my colleagues, do they consider Medicare socialism? Would they like to abolish Medicare? Probably some of them would. But Medicare—hello, my friends—is a government-run plan. It is very popular with the American people. Very few propose eliminating Medicare. So let's be real here. The public option is about offering Americans a choice in the market that, far too often, offers them none.

I will tell you the choices too many Americans face: whether to pay for health insurance or health care or to pay for other necessities of life, because health care has become so expensive. That is not a choice anyone should have to make, and maybe that explains why the American people do not agree with the critics of the public plan.

Half of all Americans think the government plan will provide better health care coverage than private insurance companies, and a significantly lower percentage disagree with that statement.

Let's be clear: A public plan may not have special built-in advantages. It would be a coverage option that would compete on an equal footing alongside private insurance plans in the market for individual and small business coverage. If a level playing field exists, then private insurers will have to compete based on quality of care and pricing instead of just competing for the healthiest consumers. In this way, a public plan will accomplish many of our most important goals. It will not waste money on costs incidental to providing health care. It will not focus on profits at the expense of the best health outcomes. Instead, it will spend money on improving health delivery and on trying innovative technologies and systems in order to save, save money. It will force many insurers that have been shielded and protected from competition for far too long to compete with a plan that provides comprehensive care at an affordable rate. It will, most importantly, give all Americans a choice. In fact, I think the thing that really scares opponents of the public option is choice, that Americans might actually choose the public plan over the plan of private insurance companies, because then the curtain might be pulled back on their friends at the insurance companies and Americans will finally see the hidden costs that have caused their premiums to skyrocket, the wasteful spending that does not improve health outcomes but fattens bottom lines, and the protection from competition that has been offered to private insurers over the last decade.

To truly reform our health care system, Congress must pass legislation that includes a public option. A figleaf public plan is no plan at all, and I will not settle for such a figleaf.

It is important to remember how we arrived here. For a long time, when thinking hypothetically about health care reform, many in this country suggested that we move to a single-payer option.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) I would note that the Senator has used 10 minutes.

Mr. SCHUMER. I ask unanimous consent that I be given 5 additional minutes.

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

Mr. SCHUMER. The Republicans rejected the single-payer plan. So at the onset of this debate, we met them halfway with a framework that continues

to largely rely on private insurers. So then we said: If we are going to continue to rely mostly on private insurance, can we at least introduce greater competition into the market by having a public plan as one option? The Republicans—most, at least; just about all, I think—rejected that too. We said: Well, what if we ensured that the public plan had to adhere to the same rules as private insurers, thus guaranteeing a level playing field? The Republicans here in the Senate—not in the country but the Republicans here in the Senate—still said no to even a level playing field.

So some Democrats came up with a new idea: What if we relied on a co-op model that has served rural States well? In a good-faith attempt to consider this idea, I proposed some ideas for ensuring that co-ops could do the job of keeping private insurers honest. Yesterday, Senator CONRAD indicated he could go along with many of these proposals. But Senator CONRAD has never been the problem here. He has been well open to negotiating on how to make a co-op plan have the kind of clout to go up against private insurance companies, be available to all Americans, be able to bargain with the providers, and be ready to go on day one to compete with the large nationwide insurance companies. Senator CONRAD has always been willing to entertain all of that. He has been a good-faith negotiator with the best interests at heart. It has been those on the other side of the aisle who have not been willing to negotiate. So I am losing confidence that Senate Republicans will ever agree to the types of changes to a co-op to make it a viable alternative, a viable substitute to a traditional public plan that is nationwide and available to everybody, that can go up against the private insurers and go up against the suppliers in buying power, that is formulated so that it hits the ground running on day one of the insurance exchange.

We can only bend so much to try to win over opponents of health care reform. We cannot bend so far that we break. We cannot say we are putting something else out there and not have it do the job because a public option is what really does the job. We must not let the scaremongering about the possible consequences of a public option deter us from doing what the American people overwhelmingly want and need. It is time to put the health needs of the American people, not the insurance companies, first. It is time to move past the partisan bickering and make sure the health care reform passed by Congress includes a real public option. It is the right thing, it is the smart thing, and it is what the American people want and what they deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina

Mr. DEMINT. 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. DEMINT. Mr. President, it seems that you are always stuck with listening to me. I apologize for that.

I wish to respond to my colleagues' grand design of our new health care system in just a moment, but I would like to back up a little bit and discuss health care and some other things in context.

There is no question in anyone's mind that these are difficult times for America. Millions are unemployed, and the unemployment rate continues to climb. Our economy has been in decline for a number of months. Our military is strained all around the world at a time when our enemies seem to be gaining strength and increasing in numbers. Back here at home, our spending and borrowing and debt are out of control, and this massive government spending plan we call the stimulus has yet to show any results. We see government intervention in many areas of our economy—in the banks, financial markets, the takeover of Fannie Mae and Freddie Mac, the takeover of large insurance companies, our auto industry. People back home and all around the country are alarmed. As I heard someone say last week as they tried to explain their alarm to me, they threw up their hands and they just said, ''I am outraged out.'' They could not speak anymore.

My question for my colleagues today is, Is this a good time to create another government program? The answer on the other side has obviously been yes. Yesterday, they all voted, I believe, to get the Federal Government in the tourism business, to close off debate and pass a plan that would get the Federal Government to promote tourism in America all over the world. I think it is like $400 million—in today's terms, a small amount of money. But the tourism industry, while hurting because of the economy, is certainly not in collapse, in need of a government bailout. The tourism industry spent billions of dollars on advertising last year.

It is not as if the rest of the world does not know we are here. The problem with tourism in America can be laid at the feet of an inept government. If you ask people abroad why they are not coming here in such numbers as they have in the past, we find the statistics show that we are the most unwelcoming at our Customs office, in the lines to get through to America. If you want to have a business convention or trade show in America, it is very likely you cannot get the visas for your customers to come here, so many of these conventions and trade shows have had to move overseas.

The problem with getting people here is in what the government is not doing well. We don't need to get the government in the tourism business. I have plants back home, such as BMW, that would like to bring people from their headquarters in Germany over here to train the American workforce, but they found it is easier just to send our people over there because it is so hard to get their people to come here. They could come here and stay in our hotels, eat at our restaurants, and improve our economy. But instead an inept government causes us to send Americans to stay in their hotels, eat in their restaurants, and rent their cars.

It is illogical for us to create a Federal tourism agency, a la Fannie Mae, a new government-sponsored entity that is going to help promote tourism, but it is this same kind of logic we are now using for health care. We are saying we have a crisis in health care, so therefore the government needs to get more involved and to take over various aspects of the health care industry, such as was just described by my colleague from New York. But if we look at this situation a little more clearly, we will see that it is the government that is causing most of our problems and not allowing the free market health care system to work.

Let's look at this a little bit closer because there was a whole lot of misinformation that was just shared on the floor here today. Let's look at health care coverage in America. You have about 60 percent now who are in employer-sponsored plans and almost another 10 percent who have purchased their own insurance on the individual market. So we have about 70 percent of people with private insurance. You have about 25 percent Medicare-Medicaid and another 4 percent or so who are in military plans on the government side. So you have between 25 and 30 percent of Americans who are now in a government health plan. And my colleague from New York was just bragging about how well the government health plans work in Medicare. Certainly, if you have Medicare and you can get a doctor to see you, it works just fine. But the problem is, every dollar that has come in from Medicare since its inception has been spent. The 2.5 precent that comes out of every paycheck has not been saved for our senior citizens, to pay for their health care; it has been spent and there is absolutely no money in the system to take care of America's baby boomers. This works like a government plan my colleague was just bragging about. It has trillions of dollars of unfunded debt that will fall on the heads of our children and grandchildren, trillions of dollars that we have no idea how we are going to pay for. And Medicare is hopelessly in debt at the State and the Federal level.

But even worse is this problem. And let's keep looking at government versus the private plans. I think most people in America would believe the best situation now in health care is to have a health insurance policy so you can pick your own doctor and decide with your doctor what kind of health care you are going to get. No plan is perfect. There are always problems in health care. It is very complex. But

you have here about 70 percent of people who are in that situation, but every year their insurance costs more money.

My colleague was saying that is caused by private insurance, but let's find out the truth. Every year, these government plans pay physicians and hospitals less. They pay a physician less than their costs to see a patient. And I have doctors I know back in South Carolina and rural areas. They have to close their practice to new Medicare and Medicaid patients because once over 60 percent of their patients are Medicaid or Medicare, they can no longer make a living. That is happening all over the country. But you know how these costs are picked up. The hospitals and doctors who take Medicare and Medicaid have to charge private insurers more money every year because every year the government pays doctors less. That is why fewer and fewer of our best and brightest students are going to medical school and that is why we are headed for a real physician shortage in this country—not because of private health insurance but because of government plans.

We have about 16 percent who have no coverage in our country today. Those are the ones whom we say we are concerned with right now. The government requires hospitals to provide them service whether they have any insurance or money anyway, and where do these costs go? They are transferred to those who have private insurance. So every year the inept government is transferring huge amounts of costs over to those employers and those individuals who are buying private health insurance.

My colleagues are trying to say that the private market is what is failing us and we need to expand this part of the health care market—the part that is not paying doctors and hospitals to see patients, the part that is trillions of dollars in debt, and the part that is already beginning to ration health care for those who are under those plans.

If you want to know how the public option is going to work, I encourage you to drop by a Social Security office, take a number, and sit down and wait for them to get to you, or maybe go to a veterans hospital or another government service. Do we really want the government involved with health care? Health care is the most personal and private service we have as Americans. Do we want to turn health care over to the most impersonal, the most bureaucratic, the most wasteful and, in many cases, the most corrupt aspect of our society?

What we do need to do is look at how we can get these private plans in the hands of those who have no insurance. That is something we can do and we can do it for a lot less than the current administration is talking about. But before we talk about how we are going to get these people insured, let's look at who they are, because this is being misrepresented to exaggerate the problem, to create a crisis so we can justify another government takeover of another area of our economy.

We say we have about 46 million uninsured in America. Here is how that breaks down. We have about 6.4 million who actually have Medicaid today, but they are undercounted in the census. This has been proven and we know it to be true. We have another 4.3 million who are eligible for Medicaid or SCHIP or another government program, but they haven't signed up for it. We need to make more of an effort to get people to sign up for the programs they are eligible for. We have about 9.3 million who are noncitizens, many of whom are illegal in this country, and the taxpayer should not be paying for their health care. We have about 10 percent who have incomes of 300 percent or more over poverty and they are not buying health care. I have had some of those work for me when I was in business. I would offer to pay for most of their insurance. I would pay $500 a month, they would pay $50. Some people turn it down because they don't want to pay $50. There are some people who don't want to buy insurance. We have some people between 18 and 34 years old without insurance, and we have 10.6 million who are uninsured. If we look at this, at least half of these should not be subsidized by any type of government plan who are not already eligible for a plan or not citizens of our country. We could look at 20 million to 25 million.

I want to make clear that if there is one person in America who doesn't have access to good health care, that is a crisis to them, and we need to do everything we can to make sure we are fair and that affordable health care policies are available to every American. That is my goal. That is the goal of the Republican Party.

This week—this afternoon, as a matter of fact—I am going to introduce a plan that will solve the problem at a fraction of the cost of what the Democrats and President Obama are proposing. In various ways, their plan is to expand the government option, whether it is a government health plan or a government-mandated plan on the private insurance market. One way or another, they want to expand government rather than expand private insurance. I know this for a fact.

This is my fifth year in the Senate. I have introduced a lot of resolutions that would help these people get insurance, and every time my Democratic colleagues have voted it down. We have had proposals for association health plans that would allow small businesses to come together and buy insurance at a lower price to offer their employees. They voted it down. I had a proposal I introduced called Health Care Choice that would do what my colleague from New York was talking about, which is break up that single State monopoly of a few health care plans. My plan would allow Americans to buy health insurance from any State in the country. Wherever a plan is registered, certified by that State, someone in South Carolina could buy it from Arizona or Colorado, and that is how most industries work in America. If I want to go across the line and buy a car in North Carolina, I am not prohibited to do that, but I can't do it if it is a health insurance plan. So we allow these quasi-monopolies to develop in every State. I have introduced a plan that would allow Americans the freedom to buy health insurance from any State in the country, and to a person the Democrats voted it down.

I have introduced a plan that would allow people to use what they have in a health savings account to pay for health insurance premiums. Common sense, right? They voted it down.

The fact is this: The people who want to expand the government option do not want these people to have private insurance, because they believe in government and they do not believe the private market can keep itself accountable. But the problems we have with the private market now can be attributed, to a large degree, to the government not paying its share of the costs, to the government having policies that keep quasi-monopolies in every State.

I have had a proposal that would allow individuals to deduct the cost of their health insurance, just as we allow employers. The Democrats to a person voted it down.

Folks, we don't have to look far to understand what is going on. The people who like taking over General Motors and Fannie Mae and Freddie Mac want these government health plans to be expanded all the way around this circle. This is something we have to stop. We can do it very simply if we use fairness and freedom.

My plea to all Americans, and particularly my colleagues, is before we give up on freedom in the health care area, let's let it work. That is what my proposal is.

This afternoon I am going to introduce a plan that tells every American: If you like the plan you have, whether it be Medicare or Medicaid or an employer plan or a military plan, you keep it; we are not going to mess with it. But if you have no coverage at all, or if you are buying your policy on your own on the open market, we are going to, for the first time, treat you fairly and give you the same tax break we give the people in the employer-sponsored plan.

This plan does this: If you are a family, we are going to give you a certificate for $5,000 to buy health insurance. If you are an individual, we will give you $2,000 a year to buy health insurance. Some will scream and say, Oh, you can't get a good policy for that, and you can, because I have bought it for my adult children who aged out of my plan.

My plan also includes the option for an individual to buy health insurance in any State so we will increase competition and lower the prices. The plan

also allows an employer to put money in a health savings account for you that you can use to pay for your health care or to pay the premium to support you to buy additional coverage with your health insurance. We have a provision that deals with lawsuit abuse, and we have a provision that funds high-risk pools for States so people who have high-risk conditions, uninsurable conditions, preexisting conditions, can buy insurance they can afford at the State level.

The estimates are by the Heritage Foundation that within 5 years, more than 20 million of these uninsured—most of them—will have private insurance plans, because they can't use their health care certificate unless they use it to buy health insurance.

I would ask my colleagues this: If we had the option to get everyone in an individual or employer plan or expand these government plans, which aren't paying their way, which are transferring costs to other people, and which are hopelessly in debt, which way do we go? But we can fund my plan without one additional dollar of taxpayer money. The estimates are over the next 10 years, getting these people insured with private policies, giving them a $5,000 a year health care certificate, will cost about $700 billion. If that number sounds familiar, that is about how much money we have outstanding with the bailout money we call TARP here in this Congress. Instead of them bringing this money back and spending it on something else, my proposal pays for my plan by recapturing this TARP money. So as this bailout money comes back over the next 5 years, it can pay to give every American access to a plan they can afford and own and keep. It is basically no additional cost to the taxpayer at this point over what we are already committed for, for the bailout.

The choice belongs to Americans. Are we going to buy this idea that a government option is going to give us more choice, more quality, more personal attention? Will it attract more physicians into the profession? Any thinking American knows that isn't going to happen. The ideal plans now are those when individuals have a plan they own and can keep, they pick their own doctor, and the doctor and the patient decide what health care they are going to get. This is within our reach. We don't need a massive government takeover of health care in order to make health care accessible to every American. Let's not buy this idea that we are in such a crisis that we have to rush over the next couple of months to create another government program, another government takeover, when we see what happens to government-run health plans right in front of our eyes. It won't work. We can't afford it. They are going to end up rationing care. They are going to take employer plans, irrespective of what they say—if you have a low-cost government option that doesn't pay doctors enough to see you, you are going to see insurers dropping their health plans and you are going to end up in the lap of government whether you like it or not.

Let's not give up on freedom. Let's look at the facts. Have we seen any government program, over your lifetime or mine, that has actually done what it said it was going to do at the cost it said it would be done at? My colleagues know that is not true.

Social Security is so important to seniors, and a promise we must keep. It is hopelessly in debt, because this government has spent every dime Americans have put in it, and there is not a dime in the Social Security account to pay future benefits. The same with Medicare—trillions of dollars. This is a commonsense solution that every American can see, if we don't listen to the misrepresentations we are starting to hear in this body. Every American with a policy they can afford and own and keep is available to us, within our reach, without any government takeover of health care. We just have to believe that what made America great can make health care work, and that is freedom.

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

Mr. CORNYN. Mr. President, would the Senator withhold the quorum call?

Mr. DEMINT. I withhold.

The PRESIDING OFFICER. The Senator from Texas.

KOH NOMINATION

Mr. CORNYN. Mr. President, I rise to speak on the nomination of Harold Koh whom the President has nominated to be legal advisor to the State Department. This is a relatively obscure but very important position at the State Department. The legal advisor operates frequently behind the scenes but on such important issues as international relations, national security, and in other areas.

One area that is very important is that the legal advisor is often the last word at the State Department on questions regarding treaty interpretation; that is, international agreements between countries. The legal advisor often gives legal advice to the Secretary of State and the President of the United States during important negotiations with other nations. We also know from experience that the legal advisor can be a very important voice in diplomatic circles, especially if he or she views America's obligations to other nations and multilateral organizations in a particular way, particularly if they have strong views.

Professor Koh has an impressive academic resume and professional background. He is an accomplished lawyer and a scholar in the field of international law. Nevertheless, I do not believe that Professor Koh is the right person for this job. I believe that many of his writings, his speeches, and other statements are in tension with some very core democratic values in this country. I believe that his legal advice on transnational law, if taken to heart, could undermine America's sovereignty or security and our national interests.

I urge my colleagues not to take my word for this but look for themselves at Professor Koh's record and consider whether he is the right person to be advising Secretary Clinton and other diplomats at the State Department on legal issues pertaining to our relationship with other nations and such key issues.

I mention this notion of transnational jurisprudence, which is a little arcane, but I will explain what it is all about. Professor Koh has been an advocate for transnational jurisprudence, which is the idea that Federal judges should look at cases and controversies as opportunities to change U.S. law and to make it look more like international or other foreign law.

I am not saying that all foreign law is bad, but our Founders acknowledged that when we take the oath of office here, we pledge to uphold and defend the Constitution of the United States of America, not some unsigned, unratified international treaty or an expansive notion of international common law which Professor Koh embraces and advocates.

We know Americans don't have a monopoly on virtue and wisdom and certainly we can benefit from exchanging ideas with other democratic countries. But Professor Koh's notion that it is appropriate and proper for a Federal judge to look at foreign law in deciding what the Constitution of the United States means, and what the laws of the United States require, to me, is at complete tension with this idea that we will uphold American values and the American Constitution and American laws passed by our elected officials. We do not appropriately ask Federal judges to look at unratified treaties, some notion of international common law and, certainly, the laws of other countries in interpreting our laws in the United States.

Professor Koh seems to have a different view. He said Federal judges should use their power to ''vertically enforce'' or ''domesticate'' American law with international norms and foreign law.

He has argued that Federal judges should help ''build the bridge between the international and domestic law through a number of interpretive techniques.''

Where will these ''interpretive techniques'' lead us? Evan Thomas and Stuart Taylor asked that question in Newsweek magazine earlier this year. They answered based on their investigation:

> Were Koh's writings to become policy, judges might have the power to use debatable interpretations of treaties and ''customary international law'' to override a wide array of federal and state laws affecting matters as disparate as the redistribution of wealth and prostitution.

Transnational jurisprudence is not the only controversial view professor Koh holds.

Again, as a law professor and dean of Yale Law School, I understand law professors advocating cutting edge and, indeed, provocative legal interpretations. But to say this is appropriate not in the classroom as a teaching exercise but, rather, important for Federal judges to do in the exercise of their article III powers is an entirely different notion altogether.

In 2002, Professor Koh gave a lecture titled ''A World Drowning in Guns,'' in which he argued for a ''global gun control regime.''

In 2007, he argued that foreign prisoners of war held by the U.S. Armed Forces anywhere in the world—not just enemy combatants held at Guantanamo Bay—are entitled to the same rights as American citizens under habeas corpus law as applied by our Federal courts.

Perhaps most timely, Professor Koh appears to draw a moral equivalence between the Iran regime's political suppression and human rights abuses, on the one hand, and America's counterterrorism policies on the other hand.

Professor Koh has written:

[U.S.] criticism of Iranian ''security forces [who] monitor the social activities of citizens, entered homes and offices, monitored telephone conversations, and opened mail without court authorization'' is hard to square with our own National Security Agency's sustained program of secret, unreviewed, warrantless electronic surveillance of American citizens and residents.

Furthermore, the United States cannot stand on strong footing attacking Iran for ''illegal detentions'' when similar charges can be and have been lodged against our own government.

The U.S. policies that Professor Koh is criticizing were authorized by the Congress in a bipartisan fashion, and each of us is accountable to our constituents for the decisions we make.

It is offensive to compare the policies of the U.S. Government with those of a theocratic dictatorship that responds to criticism with brutal violence against its own people.

We have heard enough moral equivalence regarding Iran over the last week and a half. We have heard enough apologies for the actions of the United States—and enough soft-peddling of the brutal suppression by the Iranian regime of their own people. We don't need another voice in the administration whose first instinct is to blame America—and whose long-term objective is to transform this country into something it is not.

For these reasons, I urge my colleagues to vote no on the cloture motion on this nomination.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, before I begin, are we in morning business or on the Koh nomination?

The PRESIDING OFFICER. We are in morning business.

SOTOMAYOR NOMINATION

Mr. LEAHY. Mr. President, I thank Senator MENENDEZ and Senator SCHUMER for their outstanding statements to the Senate today. As I review Judge Sotomayor's record in preparation for her confirmation hearing on July 13, I am struck by her extraordinary career and how she has excelled at everything she has done. I know how proud her mother Celina is of her accomplishments. I was delighted to hear Laura Bush, the former First Lady, say recently that she, too, is ''proud'' that President Obama nominated a woman to serve on our Supreme Court. I recall that Justice Ginsburg said she was ''cheered'' by the announcement and that she is glad that she will no longer be ''the lone woman on the Court.'' I contrast this reaction to President Bush's naming of Justice O'Connor's successor a few years ago when Justice O'Connor conceded her disappointment ''to see the percentage of women on [the Supreme Court] drop by 50 percent.'' Are these women biased, or prejudiced, or being discriminatory? Of course not. I hope that all Americans are encouraged by the nomination of Judge Sotomayor and join together to celebrate what it says about America being a land of opportunity for all.

A member of just the third class at Princeton in which women were included, Judge Sotomayor worked hard and graduated summa cum laude, Phi Beta Kappa, and shared the M. Taylor Senior Pyne Prize for scholastic excellence and service to the university. Think about that. She was a young woman who worked hard, including during the summers, to make up for lessons she had not received growing up in a South Bronx tenement. That is why she read children's books and classics, and arranged for tutoring to improve her writing. She went on to excel at Yale Law School, where she was an active member of the law school community, served as an editor of the prestigious Yale Law Journal, and as the managing editor of the Yale Studies in World Public Order working on two journals during her 3 years of law school. She was also a semifinalist in the Barrister's Union mock trial competition at the law school. Now, some Republican Senators have made fun of her achievements and some seek to belittle them. They question how she could be an editor without providing a major article that she edited. I know from my experience that members of student journals do not all edit major articles. It is an achievement to be affiliated with the Yale Law Journal in any capacity. They act as if she made this up. If this really is a major concern, and they wish to ask her about it at her confirmation hearing, they can. I have never known Sonia Sotomayor to be one who padded her resume. Frankly, she does not need to. Her achievements are extraordinary and impressive.

She is the first nominee to the Supreme Court in 100 years to have been nominated to three Federal judicial positions by three different Presidents. Indeed, it was President George H.W. Bush, a Republican, who nominated and then appointed her with the consent of the Senate to be a Federal district court judge. She has the most Federal court experience after 17 years of any nominee to the Supreme Court in 100 years. She is the first nominee in more than 50 years to have served as a Federal trial judge and a Federal appellate judge at the time of her nomination to the Supreme Court. She will be the only member of the Supreme Court to have served as a trial judge. She will be one of only two members of the Supreme Court to have served as a prosecutor.

I remember well when she was nominated to the United States Court of Appeals for the Second Circuit by President Clinton, and when an anonymous Republican hold stalled her appointment for months. Finally, in June 1998, a column in The Wall Street Journal confirmed that the Republican obstruction was because they feared that President Clinton would nominate her to fill a Supreme Court vacancy, if one were to arise. After that Supreme Court term ended without a vacancy, we were finally able to vote on her nomination and she was confirmed overwhelmingly. Not one word was spoken on the Senate floor and not one word was inserted into the CONGRESSIONAL RECORD by those who had opposed her to explain their opposition or to justify or excuse the shabby treatment her nomination had received.

It is apparent that some Republicans are responding to the demands of conservative pressure groups to oppose her confirmation by doing just that. The truth is that they were prepared to oppose any nomination that President Obama made. Just today, a number of Republican Senators have come to the Senate floor to speak against President Obama's nomination of Judge Sonia Sotomayor to the Supreme Court. The Senate Republican leader, the ranking Republican on the Judiciary Committee, and the head of the National Republican Senatorial Committee have all taken a turn.

My initial reaction to their effort is to note that they have doubly demonstrated why a hearing should not be delayed. In fairness, no one should seek to delay her opportunity to respond to their questions and concerns and to answer their charges. As I said when I set the hearing date after consulting with Senator SESSIONS, I wanted it to be fair and adequate—fair to the nominee and adequate to allow Senators to prepare. To be fair to her, we need to give her the earliest possible opportunity to answer. As for preparedness, those Republican critics were prepared to air their grievances and concerns and to discuss her record and her cases 3 weeks before

the scheduled date of the hearing. What they clearly demonstrated today is that they are prepared to proceed with the July 13 hearing.

I do not agree with their characterization of her distinguished record on the Federal bench, or with their mischaracterization of her manner of judging. Judge Sotomayor's approach to the law should be clear to all after a 17-year record of fairly applying the law on the Federal bench. I remind them that when I asked Judge Sotomayor about her approach to judging she told me that, of course, one's life experience shapes who you are, but she went on to say this: ''Ultimately and completely''—and she used those words—as a judge you follow the law. There is not one law for one race or another. There is not one law for one color or another. There is not one law for rich and a different one for poor. There is only one law. She said ultimately and completely, a judge has to follow the law no matter what his or her upbringing has been. That is the kind of fair and impartial judging that the American people expect. That is respect for the rule of law. That is the kind of judge she has been.

For all the talk we have heard for years about judicial modesty and judicial restraint from nominees at their confirmation hearings, we have seen a Supreme Court these last four years that has been anything but modest and restrained. One need look no further than the Lilly Ledbetter and Diana Levine cases, or the Gross case from last week, to understand how just one vote can determine the Court's decision and impact the lives and freedoms of countless Americans.

The question we should be asking as we consider Judge Sotomayor's nomination is whether she will act in the mold of these conservative activists who have second-guessed Congress and undercut laws meant to protect Americans from discrimination in their jobs and in voting, laws meant to protect the access of Americans to health care and education, and laws meant to protect the privacy of all Americans from an overreaching government. We should be asking whether she will be the kind of Justice who understands the real world impact of her decisions.

I know Judge Sotomayor is a restrained and thoughtful judge. She understands the role of a judge. Her record is one of restraint. In fact, the cases her critics chose to highlight are cases in which she showed restraint and followed the law. I hope that she is also a judge who understands that the courthouse doors must be as open to ordinary Americans as they are to government and big corporations.

I wish Republican Senators would pay less attention to the agitating from the far right, take a less selective view of a handful of Judge Sotomayor's cases to paint her—inaccurately—as an activist and, instead, consider her record fairly. She has been a judge that Kenneth Starr has endorsed. The other judges on the Second Circuit think the world of her, and have great respect for her judgment and judging. She is a nominee in which all Americans can take pride and have confidence. She has been a judge for all Americans and will be a Justice for all Americans.

I am sorry that some critics are seeking to caricature Judge Sotomayor and mischaracterize her involvement with respectable mainstream civil rights organizations. Judge Sotomayor was a member of board of directors of the Puerto Rican Legal Defense and Education Fund, PRLDEF, now known as LatinoJustice PRLDEF, from 1980 until her resignation in 1992. Today, Republican critics chose to malign PRLDEF. This is a respected organization that was founded in the early 1970s with the support of Senator Jacob Javits, former Attorney General Nicholas Katzenbach, former New York Attorney General Robert Abrams, and legendary New York County District Attorney Robert Morgenthau, who was Judge Sotomayor's boss when she worked in his office as a prosecutor after graduating from Yale Law School.

It was modeled on the NAACP Legal Defense and Educational Fund. Its mission is to develop a more equitable society by creating opportunities for Latinos in areas where they are traditionally underrepresented. It seeks to ensure that Latinos have the legal resources necessary to fully engage in civic life. Financial support for PRLDEF comes from widely regarded foundations like Ford and Carnegie, and corporate contributions from businesses like Time Warner. These foundations and corporations are not radical. Neither is PRLDEF.

Other past directors of PRLDEF include the honorable Jose Cabranes of the U.S. Court of Appeals for the Second Circuit, former Congressman Herman Badillo, now a senior fellow at the Manhattan Institute, and former Governor of New York Hugh Carey. Jack John Olivero, a former regional director of the Equal Employment Opportunity Commission and deputy director of its Washington office was PRLDEF's fourth president and general counsel. The list goes on and on of distinguished lawyers who have served in leadership capacities at PRLDEF.

One of PRLDEF's core missions is increasing diversity in the legal profession. To that end, PRLDEF mentors youth from all backgrounds, assisting them in completing their law school applications, mentoring them throughout law school, and supporting them during their years as young lawyers. Thousands of attorneys, including prominent civic, government, and corporate leaders, credit PRLDEF for helping them realize their dreams of becoming lawyers.

We all know about this part of Sonia Sotomayor's life because she disclosed her board membership and status as an officer in response to the Judiciary Committee's questionnaire. We know about it because Judge Sotomayor not only reviewed her own records to provide documents from her time at PRLDEF, but she also went above and beyond what the bipartisan questionnaire called for and asked that PRLDEF conduct its own search of its records. Judge Sotomayor has now provided the committee with additional documents from this search related to her work for PRLDEF. The record before us is public and it is transparent. We already have a more complete picture of Judge Sotomayor's record than we ever had of the records of John Roberts or Samuel Alito.

The committee did not receive 15,000 pages of documents related to key parts of Chief Justice Roberts' career in executive branch until the eve of the hearings, and many of them were heavily redacted. The Bush administration refused to meet or even discuss the Democrats' narrow request for specific memoranda relating to 16 key cases on which John Roberts worked while he was the principal deputy to Solicitor General Kenneth Starr in the administration of President George H.W. Bush. As a result, the committee had little knowledge of highly relevant parts of John Roberts's work as a political appointee in the office of ''the people's lawyer''—the Solicitor General. Because John Roberts had fewer than 3 years on the bench at the time of his nomination, these documents would have provided a crucial window into his qualifications. But we never received them.

During the committee's consideration of the Alito nomination, we requested documents from Samuel Alito's 6 years in the Department of Justice. However, the Bush administration just days before his hearing refused to produce 45 of the 50 opinions Sam Alito had written or supervised while in the Office of Legal Counsel. The administration also refused to provide most of the documents he wrote while in the Solicitor General's Office. Indeed, in refusing our request for these documents, the Department of Justice wrote:

> Judge Alito has sat on the federal appellate bench for more than 15 years, and his decisions in that capacity represent the best evidence of his judicial philosophy and of the manner in which he approaches judicial decision-making.

I do not recall a single Republican saying that we did not have a complete record to consider those nominations of President Bush to the Supreme Court even though there were significant gaps in the records. We should not apply a double standard to the nomination of Sonia Sotomayor.

We have Judge Sotomayor's record from the Federal bench. That is a public record that we had even before she was designated by the President. Judge Sotomayor's mainstream record of judicial restraint and modesty is the best indication of her judicial philosophy. We do not have to imagine what kind of a judge she will be because we see what kind of a judge she has been.

I thank Judge Sotomayor for her quick and complete answers to the committee's questionnaire, and for going above and beyond what is required. My review of Judge Sotomayor's record has only bolstered the strong impression she has made over the past several years. She is extraordinarily qualified to serve on the Nation's highest court. She will bring to the Supreme Court more than just her first-rate legal mind and impeccable credentials. Hers is a distinctly American story. Whether you are from the South Bronx, the south side of Chicago or South Burlington, the American Dream inspires all of us, and her life story is the American dream.

I am confident that when elevated to the highest court in the land Judge Sotomayor will continue to live up to Justice Marshall's description of the work of the judge. Justice Marshall said:

> We whose profession it is to ensure that the game is played according to the rules, have an overriding professional responsibility of ensuring that the game itself is fair for all. Our citizenry expect a system of justice that not only lives up to the letter of the Constitution, but one that also abides by its spirit. They deserve the best efforts of all of us towards meeting that end. In our day-to-day work we must continue to realize that we are dealing with individuals not statistics.

It is a pretty awesome responsibility when a Justice of the Supreme Court is nominated. Most Justices will serve long after the President who nominated them is gone, long after most of the Senators who vote on that nominee are gone. We have 300 million Americans. There are only 101 Americans who get a direct say in who is going to be on the Supreme Court. First and foremost, the President of the United States, when he makes the nomination to the Supreme Court, and then the 100 Senators who either vote yes or vote no. So let's stop delegating our work to special interest groups. Let's delegate our work to ourselves. Let's do what we are paid to do. Let's do what we have been elected to do.

This is a historic nomination. It should unite the American people and unite the 100 of us in the Senate who will act on their behalf. It is a nomination that keeps faith with the words engraved in Vermont marble over the entrance of the Supreme Court: ''Equal Justice Under Law.''

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

The PRESIDING OFFICER (Mr. KAUFMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HEALTH CARE

Mr. SANDERS. Mr. President, I think most Americans understand that our current health care system is disintegrating. Today, 46 million Americans have absolutely no health insurance, and even more are underinsured, with high deductibles and high copayments. At a time when 60 million people, including many with insurance, do not have access to a medical home—do not have access to a doctor of their own—close to 20,000 Americans die every single year from preventable illnesses because they do not get to a doctor when they should. This is six times the number of people who died during the tragedy of 9/11, but these deaths occur every single year.

I can vividly recall talking to physicians from Vermont—and I am sure the same is the case in Delaware and every other State in this country—who told me that patients walked into their office very sick, and they would say: Why didn't you come in here before? You are very ill. And they said: Well, I didn't have any insurance. I didn't want charity. I thought I would get better.

By the time people ended up walking in the door, their situation was so bad that the doctors lost those patients—people who should not have died. This is happening close to 20,000 times every single year in this country.

Recently, the Boston Globe had a big story—and this is in the State of Massachusetts, which supposedly has universal health care—which reported that patients with chronic illnesses, such as diabetes and heart disease, were not taking their medicines or not getting the treatments they needed because they couldn't afford the 25-percent copay. Yet Massachusetts has almost everybody covered.

So when we talk about the health care crisis, it is not just the number of people who have no health insurance, it is people who are underinsured. When you add that together, we have huge numbers of people who are not getting the medical care they need when they need it. The result is not only personal suffering, the result is that they end up going to the emergency room, costing the system far more than it should or they end up in the hospital at a highly inflated medical cost. This makes zero sense and is a manifestation of a dysfunctional health care system.

In the midst of all of this, somebody may say: Well, you have 46 million uninsured, you have more underinsured, people are dying needlessly, but at least you are not spending a lot of money. If you bought an old broken down car and you started complaining that it doesn't work well, I would say to you: Hey, what do you expect? You didn't spend a whole lot on your car.

The reality is—and this is an important point to make, because people say that Canada has problems. Canada does have problems. They say the United Kingdom has problems. Sure, they have problems. France has problems. Every country has problems. But the reality is that we are spending almost twice as much per capita on health care as any other nation. We should be doing far better in terms of health care outcomes than every other country on Earth, and that is certainly not the case. The reality is we are spending close to $2.7 trillion on health care, which is 18 percent of our GDP, and the skyrocketing cost of health care in America is unsustainable both from a personal point of view and a macroeconomic point of view.

At the individual level, the average American today is spending about $7,900 per year on health care. Do you believe that? How many people do you know in Delaware who are making $25,000, $30,000 a year who are spending $8,000 a person on health care? That is beyond comprehension.

Here is an important point to make. Despite this huge outlay, a recent study found that medical problems contributed to 62 percent of all bankruptcies in the year 2007. That means that this year there will be approximately 1 million Americans who are going bankrupt because of medically related problems. Stop and think: a million Americans going bankrupt because they can't pay their medical bills.

On a personal level, what does it mean? Imagine dealing with cancer, dealing with diabetes, dealing with heart disease, and at the same time having to stress out and worry about how you are going to pay the bill. I am not a doctor, but I can't help believing that it doesn't make one's recovery process any better when you are sitting around wondering whether you are going to go bankrupt. We are the only country in the entire world—the entire industrialized world—where people are worrying about having to go bankrupt because they committed the crime of getting sick. This is unacceptable, and we as a nation can and must do much better than that.

That is from the personal point of view. What about the macroeconomic point of view, the business perspective? Well, we know that large corporations, such as General Motors, for example, having so many economic problems, spends more on health care per automobile than they do on steel. That is a big corporation. We also have small businesses in the State of Vermont and around the country that are forced to divert hard-earned profits into health coverage for their employees rather than into new business investments. That is what they are faced with: Do they spend the money growing their business or do they provide health insurance to their workers?

Because of rising costs, it is no secret that many employers, many businesses, are cutting back on the level of their coverage, and passing more of the cost on to their workers. In more and more instances, you know what employers are saying? Sorry, can't do it anymore; we are not going to provide any health care coverage to the workers.

What we are looking at is a situation which is disastrous for millions of

Americans on a personal level, and disastrous for our economy, making us uncompetitive with countries all over the world that have a national health care program.

There is one other point that should be made and that we don't talk about very often. Nobody knows what the exact figure is, but there are some estimates that as many as 25 percent of American workers are staying at their jobs today. You know why they are staying at the job they are at today? It is not because they want to stay at their job. They are staying in their job because they have a good health insurance policy which covers themselves and their families.

Stop and think from an economic point of view, from a personal point of view: Does it make sense that millions of people are tied to their jobs simply because they have decent health insurance policies? What sense does that make?

It is important—and I am sorry to say we don't do this enough—to ask a very simple question: How could it be that, according to the OECD in 2006—the best statistics that we have—the United States spent $6,700 per capita on health care—we are now spending more—Canada spent $3,600, and France spent $3,400? France spends about one-half of what we spend per capita, and most international observers say that the French system works better than our system. So as we plunge into health care reform, it would seem to me the very first question we should ask ourselves is: How do the French, among others, spend one-half of what we are spending and get better outcomes than we do?

In terms of how people feel about their own systems, according to a five-nation study in 2004 by the well-respected Commonwealth Fund, despite paying far more for our health care, it turns out that, based on that study, Americans were far more dissatisfied than the residents of Australia, Canada, New Zealand, and the UK about the quality of care they received. In that poll, one-third of Americans told pollsters that the U.S. health care system should be completely rebuilt—far more than the residents of other countries. Does that mean to say they do not have problems in Canada or the United Kingdom? Of course they do. Their leaders are arguing about their systems every single day. But according to these polls, more people in our own country were dissatisfied about what we are getting, despite the fact that we spend, in many cases, twice as much as what other countries are spending.

It seems to me, as the health care debate heats up—and we hope more and more Americans are involved in this debate—that we as a nation have to ask two fundamental questions. In one sense, this whole issue is enormously complicated. There are a thousand different parts to it. On the other hand, it really is not so complicated. The two basic questions are, No. 1, should all Americans be entitled to health care as a right and not a privilege—which is the way, in fact, every other major country treats health care. Should all Americans be entitled to health care as a right, universal health care for all of our people?

That, by the way, of course, is the way we have responded for years to police protection, education and fire protection. We take it for granted that when you call 911 for police protection, the dispatcher does not say to you: What is your income? Do you have police insurance? We can't really come because you do not have the right type of insurance to call for a police car or to call for a fire truck. When your kid goes to school, we take it for granted that no one at the front desk of a public school says: Sorry, you can't come in, your family is not wealthy enough. What we have said for 100 years is that every kid in this country is entitled to primary and secondary school because they are Americans and we as a nation want them to get the education they deserve. Every other major country on Earth has said that about health care as well. Yet we have not.

I think right now and I think what the last Presidential election was all about is most Americans do believe all of us are in this together and all of us are entitled to health care as a right of being Americans.

The second question we have to ask is, if we accept that, if we assume all Americans are entitled to health care, how do you provide that health care in a cost-effective way? There are a lot of ways you can provide health care to all people. You can continue to throw money at it.

The PRESIDING OFFICER. The Senator has consumed 10 minutes.

Mr. SANDERS. I ask unanimous consent for 5 more minutes.

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

Mr. SANDERS. You can continue to throw billions and billions of dollars into a dysfunctional system. That is one way you can do it. I don't think that makes a lot of sense.

I think the evidence suggests that if we are serious about providing quality health care to every man, woman, and child in a cost-effective way, then our country must move to a publicly funded, single-payer, Medicare-for-all approach. Our current private health insurance system is the most costly, wasteful, complicated, and bureaucratic in the world. The function of a private health insurance company is not—underline ''not''—to provide health care to people, it is to make as much money as possible. In fact, every dollar of health care that is denied a patient, an American, is another dollar the company makes.

With 1,300 private insurance companies and thousands of different health benefit programs designed to maximize profits, private health insurance companies spend an incredible 30 percent of each health care dollar on administration and billing, exorbitant CEO compensation packages, advertising, lobbying, and campaign contributions. Aren't we all delighted to know our health care dollars are now circulating all over the Halls of Congress, paying outrageous sums of money to lobbyists, making sure we do not do the right thing for the American people? Public programs such as Medicare and Medicaid and the Veterans' Administration are administered for far, far less than private health insurance.

Let me conclude by saying that I understand that the power of the insurance companies and the drug companies, the medical company suppliers—the medical equipment suppliers—is so significant, so powerful that we are not going to pass a single-payer, Medicare-for-all program. But at the very least, what polls overwhelmingly show is that the American people want a strong, Medicare-like public option in order to compete with the private insurance companies. That is the very least we can and must do for the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized as in morning business for such time as I may consume.

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

KOH NOMINATION

Mr. INHOFE. I do have a couple of comments to make concerning the remarks by my good friend from Vermont. I will do that at the conclusion of another subject I feel some passion about, and that has to do with the nomination of Harold Koh by President Obama. He is nominee for the position of Legal Adviser to the State Department.

I understand cloture has been filed on Harold Koh. I wanted to come to register my strong opposition and assure the American people that their representatives in Congress are not going to let this nominee sail through unopposed and to let them know there are some of us here in the Senate who will require full and extensive debate before this nominee receives a vote. I think in doing so you almost have to ask the question as to what ever happened to the understanding we have always had in this country as to what sovereignty really means.

As Legal Adviser to the State Department, Koh would be advising the Secretary of State on the legality of U.S. action in the international forum and interpreting and advocating for international law and treaties. The significance of this position and its effect on our sovereignty and security should not be understated. Koh is a self-proclaimed transnationalist. Adherents to this school of thought believe international law is equal to or should take

precedence over domestic law and international court rulings have equal authority to the decisions of a representative government. That is very significant. I know he actually believes this and he adheres to this school of thought, that international law is equal to or should take precedence over domestic law. Koh's transnational principles could have serious implications on U.S. sovereignty, especially regarding the authorization of the use of force in the prosecution of the war on terror, gun rights, abortion, and many other issues.

Koh believes a nation that goes to war should have—must have United Nations Security Council authority, going as far as writing that the United States was part of an ''axis of disobedience'' by invading Iraq—or should we say by liberating Iraq.

In October of 2002, Koh wrote:

> I believe . . . that it would be a mistake for our country to attack Iraq without explicit U.N. authorization, because such an attack would violate international law.

Additionally, he supports ratification of the International Criminal Court, which could subject our troops to prosecution in a foreign court.

Implementation of this interpretation of international law raises a number of alarming questions. If the United States is required to gain U.N. authority for military action, what punitive actions might the United States be subjected to if it unilaterally uses preemptive force? Would our Navy SEALs have had to wait for authorization from the international body before rescuing the American being held hostage off the Horn of Africa? I think 99 percent of American people said they should have that authority and we should not have to go to any kind of an international court.

I don't know where this obsession has come from that nothing is good unless it is international anymore.

In 1992, George Will said:

> There may come a time when the United States will be held hostage to . . . the idea that the legitimacy of U.S. force is directly proportioned to the number of nations condoning it.

That was back in 1992, and this is what is happening today. I hope that day never comes. The decisions made to protect our great Nation should not be made by members of an international body but by men and women who are elected by the people of these United States.

Equally concerning is Koh's treatment toward Department of Defense recruiting efforts. In October of 2003—some of us remember this—Koh led a team of Yale law faculty in filing an amicus brief in support of a lawsuit against the U.S. Department of Defense, claiming the Solomon amendment was unconstitutional. The Supreme Court rejected Koh's arguments unanimously. That was at a time when there were very few things that were unanimous in the Supreme Court. He was rejected unanimously.

Writing for the Court, Justice Roberts stated:

> Nothing about recruiting suggests that law schools agree with any speech by recruiters, and nothing in the Solomon amendment restricts what the law schools may say about the military's policies.

Further, Koh supports accession to the International Criminal Court, the United Nations Convention on the Law of the Sea Treaty, the United Nations Convention on the Rights of the Child, and the Inter-American Convention Against Illicit Manufacturing of and Trafficking in Firearms. What is this CIFTA that has been promoted by President Obama? That is that we yield to an international group in terms of how we manufacture and distribute weapons in this country.

All of these treaties would greatly impact the lives of everyday Americans and would require the United States to alter its domestic law to meet their respective parameters.

In 2002, Koh spoke at Fordham University Law School about a ''World Drowning in Guns.'' That gives an indication where he is coming from. His speech was published in the Fordham Law Review. Koh's topic was the international arms trade, but, as usual, his analysis had serious domestic implications. Koh wrote that American legal scholars should pursue ''the analysis and development of legal and policy arguments regarding international gun controls'' through constitutional research on the second amendment. In other words, Koh believes the best way to regulate guns in America is through international law, through a global gun control regime.

As Legal Adviser, Koh would be in a position to pass judgment on whether a proposed treaty would raise legal issues for the United States, including issues related to the second amendment. He would, therefore, be able to endorse treaties that could be used by the courts to restrict the individual right to keep and bear arms—an idea he is clearly and openly in favor of. It is simply not true to say that his beliefs about gun control—this is what some people say—the second amendment right, doesn't really matter because he will be in the State Department advising on international law. On the contrary, he wants to use international law to restrict constitutional freedoms in this country.

In his position, he will have the power to advise the administration and to testify before the Senate about what reservations might be needed when ratifying a treaty to protect constitutional freedoms. However, he has a history of advocating for treaties without conditions. He cannot be trusted to express reservations with treaties that I believe will negatively impact everyday Americans.

The fact that he is in the State Department doesn't make him safe, it makes him more dangerous. This is exactly where, with the possible exception of the Supreme Court, he wants to be. This is not an accident. It is his strategy. He realizes he cannot achieve his goals through legislation, so he has turned to international law. If he can establish that international law is binding on the United States, regardless of whether the Senate has ratified the treaty in question, activists can avoid Congress and work the issue through the courts.

If you believe the second amendment confers an individual right to bear arms on the American people, then I urge you to reaffirm that principle by voting against Harold Koh. If you believe our Nation should not be subjected, by a variety of treaties, to threats to our national sovereignty and American way of life, I urge you to reaffirm those values by voting against the nominee.

I mentioned several international treaties he has promoted. It is not just confined to our second amendment rights, it is everything else. The basis of his influence in these areas is that somehow international law should have precedence over our laws. This is something we have been in trouble with for a long period of time. Every time we yield to the United Nations, we end up with a very serious problem. I have talked to a number of our troops overseas who are very much concerned about being subjected to the international court.

Let me make one comment before I yield back any remaining time, and that is on the subject that was discussed by the Senator from Vermont.

HEALTH CARE

Mr. INHOFE. It is easy to say, and people will applaud when they say: You are going to end up getting something for nothing. You are going to get an education for nothing. You are going to get a college education. You are going to get health care for nothing. That sounds real good. Someone has to pay for all this stuff.

I suggest that if you go up to the Mayo Clinic in the Northern tier of the United States, you will look and you will see a very large population of patients from Canada who are there; patients who have been told: Well, yes, you have breast cancer. But because you are at a certain age, we are not able to operate on you. If we do, it is going to be a waiting period of some 18 months. At the end of that time, of course, the patient is going anyway.

We are talking about, in this country, we need to do something about it, about the way we have been running our health care system. I think improvements can be made. I remember one time the first lithotripter was used, I believe, in a hospital in my State of Oklahoma, in Tulsa, OK, at St. Johns Hospital.

That was a technique where you could submerge a patient and dissolve different things that were within them, kidney stones and that type of thing. However, they could not use it. So they

had to surgically and very invasively operate on people and cut them open to remove these things that could otherwise have been dissolved.

But the problem was, we have, in our Medicare system, a lot of people who are making medical decisions who are not qualified. So we have a lot of improvements that need to be made. But by adopting a system that has been a failure everyplace it has been tried, whether it is Sweden or Great Britain or Canada, is not something we are prepared to do in this country. I know the effort is out there, and they are going to make every effort to see that that happens. We are going to make sure that does not happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I know that most of my colleagues seem to enjoy the government health care plan of which they are a member. I am always surprised when I hear my colleagues, first of all, almost all of whom are on the government health insurance plan, talking about the government not providing a decent health care plan.

I particularly am intrigued when I hear my colleagues say it is a dismal failure anywhere else in the world. I am not proud of this, as I stand on the floor of the Senate, but I know we spend twice what almost any other country does in the world on health care.

I also know that in the rankings, based on the rankings of various kinds of health care indexes, maternal mortality, infant mortality, life expectancy, immunization rates, the United States ranks near the last among the rich industrialized countries.

But in one category, the United States of America rates almost first among the rich industrialized countries; that is, life expectancy at 65. If an American gets to the age of 65, yes, we do have some of the best health care in the world because everybody has the opportunity to join Medicare. And 99 percent of our society's elderly, 99 percent-plus, belong to Medicare.

When I hear my colleagues, most of whom are on the government health insurance plan paid for by taxpayers, saying that government cannot do health insurance in pointing to other countries saying it is a failure everywhere else, I look at them a little quizzically, because when I hear—when I talk to a Canadian, they have to wait too long, they underfund their system. But I do not see Canadians repealing their health care law because they are unhappy with it. I do not see the Brits doing it, I do not see the French or the Germans or the Japanese or the Italians. They spend less than we do, and they have higher life expectancies, they have a lower maternal mortality rate, lower infant mortality rates.

So maybe we can learn something. That being said, health care reform—I am right now working across the street with Chairman DODD and Senator COBURN and others in both parties writing health care legislation.

Health care reform, first and foremost, is about protecting what is working in our system—there is much that works well in our health care system—and fixing what is broken in our system. That is, in a nutshell, what we are doing. We are working to protect what works in our health care system. We need to fix what is broken. It is about giving Americans the choices in the health care they want.

It is about providing economic stability for millions of middle-class families in Ohio and around the Nation, in Delaware and other States, the Presiding Officer's State.

I know an awful lot of people, a huge number of people in our country, say: You know, I am pleased with the health insurance I have. It works pretty well. The copays may be a little too high, the deductibles may be too high, I argue with insurance companies more than I would like to. So they are generally happy. We want to protect what is working.

But an awful lot of families know they are a pink slip and an illness away from bankruptcy. A whole lot of families know they are watching their health care disintegrate or at least decline. They are seeing copays go up. They are seeing drug coverage scaled back. They are seeing their dental care and their vision care eliminated because their employers cannot afford it. So, again, we have to protect what works, we need to fix what is broken.

A part of economic stability for health care is the public health insurance option. It is an option. A public health insurance option would expand health insurance choices available to Americans. It would increase competition in the health insurance market.

There is hardly an American alive who has private health insurance that does not think they have been mistreated from time to time by their insurance company.

Bringing more competition to the insurance market with a public health insurance option—whether you take it, whether you stay in your private health insurance, your choice or you go unto the public health option, again your choice, some Medicare lookalike, you can make that choice.

But the existence of both of them will make them both better. It will make the public health insurance Medicare lookalike option better, it will make private insurance better, because, what? Presto. It is American competition. It is what works.

But every time meaningful health care reform has been debated over the last six decades, we have heard misleading shouts from conservatives, from insurance companies, from the American Medical Association.

They say government takeover. They say bureaucratic redtape. They say socialized medicine. We heard it in 1949, after President Harry Truman was first elected. He had been President for almost 4 years after succeeding President Roosevelt.

President Truman called for health insurance reform. They said it was socialized medicine. We heard it even back in the early 1930s, when Franklin Roosevelt was creating Social Security, thought about creating ''health security'' at the same time, a Medicare-like program. He backed off because of the opposition of the American Medical Association because he knew they would say ''socialized medicine.''

Then they said it a decade and a half later when Harry Truman was President. Then another decade and a half later, as you know, they, again, the doctors and the insurance companies and the conservatives and many in the Republican Party and both Houses, again, said ''socialized medicine,'' when we were passing Medicare.

We know Medicare is not socialized medicine. You have your choice of doctor, your choice of hospital, your choice of providers. Medicare is the payer, the government serves as the insurance company. That is not socialism. That is just a program the American people love.

We hear these same kinds of things now. We hear about a public health insurance option. We hear it is socialism, a government takeover, it is bureaucratic redtape. Yet at the kitchen tables of middle-class homes in Toledo and Dayton and Akron and Gallipolis and Zanesville and Mansfield and Lima in my State, hard-working families are talking about using mortgage payments to pay for a sick child's health care treatment.

Small business owners are talking about cutting jobs because health care insurance costs simply are too high. Around the Nation, middle-class Americans are talking about how public health insurance options are needed to help provide economic stability for their families.

As we debate reform, we cannot forget that millions of Americans are depending upon us, us in this Chamber, and our colleagues on the other end of the building, depending upon us to do the right thing.

We should listen to people such as Darlene, a school nurse from Cleveland. Darlene treats students who come from economically distressed neighborhoods, who lack access to healthy food, who lack access to safe recreation. Her students struggle in school because they are worried about a sick parent or grandparent who cannot afford health care.

Darlene wrote to me describing that one student has asthma and has a heart condition. This is a grade school student. But she does not have an inhaler because her parents are unemployed and they lack health insurance. She has asthma attacks, but she does not have an inhaler because her parents simply cannot afford it.

We are not going to pass a public health insurance option?

At a time when too many Americans are struggling to pay health care costs, the public health care option will make health insurance more affordable. Our Nation spends more than $2 trillion—$2 trillion—that is 2,000 billion dollars. Mr. President, if you had $1 billion, if you spent $1 dollar every second of every minute of every hour of every day, it would take you 31 years to spend that $1 billion.

We spend on health insurance 2,000 billion dollars, 1 trillion. Think how much that is. Yet too many of our citizens are only a hospital visit away from a financial disaster. We cannot afford to squander this opportunity for reform. We cannot settle for marginal improvement. Instead, we must fight for substantial reforms that will significantly improve our health care system.

Remember, it is about protecting what works and fixing what is broken. That is why we must make sure a public health insurance option is available for Americans, not controlled by the health insurance industry. We must preserve access to employer-sponsored coverage for those who want to keep their current plan. But that is not enough. Give Americans the choice to go with a private or public health insurance plan and let them compete with each other. It is good policy. It is common sense. A public insurance option will make health care affordable for small business owners such as Chris from Summit County.

Chris writes that his small business is struggling to keep up with rising health insurance costs for his employees. He is getting priced out of the market. Chris explains how a public health insurance option would help reduce the cost to his small business and provide the employees the health care they need that he so much wants to provide to his employees whom he cares about, whom he knows are productive, who help him pay the bills.

Chris wants me and other Members of the Senate to push for real change for the health care system that helps small business owners and workers alike.

A public health insurance option would also make insurance affordable for Americans struggling when life throws them a curve, such as Karen from Toledo. She wrote to me explaining how she now takes care of her adult son who is suffering from advanced MS. Over the course of the last 5 years, her son lost his small business, lost his insurance, then was diagnosed with progressive MS. They spent years meeting with specialists, dealing with insurers, fighting for care.

All the while, Karen dropped out of her Ph.D. program because her savings were depleted and she needed to take care of her son and she had no one else to turn to.

And we are not going to pass a public health insurance option?

The public health insurance option would offer American workers and families such as Karen and her son affordable, transitional insurance if you lose your job and lose your insurance. We cannot let the health insurance industry dictate how the health care system works or limit the coverage option Americans deserve.

Anyone who has had to shop for individual health coverage knows how expensive it can be, even if you are eligible, such as Peter from Cincinnati. Peter retired after a successful career as an architect, where he enjoyed very good health care coverage. After he retired, he thought he would have no problem affording private health insurance coverage. But despite never filing a claim, his premiums and his deductibles kept rising, forcing him to buy a second policy. And merely 2 weeks after total knee replacement surgery, his secondary insurer dropped him and left him with a bill of $27,000. Peter asked that we fix what is broken.

And we are not going to pass a public health insurance option?

That is what we are here to do. Millions of Americans are demanding a public health insurance option that increases choice for all Americans and provides economic stability for our Nation's middle-class families. The stories of Darlene, Chris, Karen, and Peter must guide this administration and must direct this Congress to protect and provide health care for all Americans.

Health care reform is about protecting what works and fixing what is broken.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

KOH NOMINATION

Mr. DEMINT. Mr. President, I rise today, regretfully, to oppose the nomination of Harold Koh to be the State Department legal adviser. It is hard to do because in meeting Mr. Koh, I certainly enjoyed him. I have friends back in South Carolina who know him. He is certainly a very likable person. But his nomination to this important position requires some scrutiny about what his philosophy is when it comes to the United States and our international agreements and the sovereignty of our country.

I oppose Mr. Koh's nomination for many reasons, and most important of these is my belief that if confirmed, he will work to greatly undermine the principles of sovereignty that I believe all Americans expect of our Federal Government.

Let me talk a little bit about his role and what that would be if he is confirmed as the legal adviser to the State Department.

According to the State Department's Web site, the legal adviser would furnish ''advice on all legal issues, domestic and international, arising in the course of the department's work and negotiate, draft, and interpret international agreements involving peace initiatives, arms control discussions, and private law conventions on subjects such as judicial cooperation in recognition of foreign judgments.''

On a daily basis, Mr. Koh will also advise our government on a variety of Federal legal issues that he believes affect international law and our foreign relations. He will determine positions the United States should take when dealing with international bodies and in international conferences, and counsel administration officials on international negotiations, treaty interpretations, and treaty implementations.

As we move forward in the future as a country, one of the biggest debates we are going to have is what role does American sovereignty play in the world and how important is it, and there is a difference of philosophy here in Washington today.

So as we review this nomination, it is very important to us, particularly Republicans, that we start from the foundation in our State Department that we will act in the best interest of our country and the American people, and that our interests as a country are paramount in how we deal with the rest of the world. Of course, that does not mean that we don't try to support other countries as best we can, but the fact is, the role of the Federal Government is to protect and defend our people and our interests. So we need to make sure this key adviser to our State Department and our international relations believes those principles.

Many of Mr. Koh's supporters claim that the allegations that have been voiced against him, such as undermining the Constitution, are unjustified. However, Mr. Koh's own writings suggest otherwise. For example, in a 2004 law review article titled ''International Law As Part Of Our Law,'' Mr. Koh states:

> U.S. domestic courts must play a key role in coordinating U.S. domestic constitutional rules with rules of foreign and international law, not simply to promote American aims but to advance the broader development of a well-functioning international judicial system. In Justice Blackmun's words, U.S. courts must look beyond narrow U.S. interests to the ''mutual interests of all nations in a smoothly functioning international legal regime'' and, whenever possible, should ''consider if there is a course of action that furthers, rather than impedes, the development of an ordered international system.''

Certainly we want good relations with countries all over the world, and we are looking at making treaties of various kinds, but an idea of a smoothly functioning international legal regime, when it subordinates the interests of the American legal regime, should cause all of us to stop and think. Our protection, our prosperity,

our defense—everything we are as a country—depends first on our sovereignty, as does our support of other nations depend on our sovereignty. This idea of a global world order of some kind is frightening to many people, including myself.

It appears Mr. Koh is reinterpreting our own Constitution to comply with rules of foreign and international law instead of first protecting and defending our Constitution and seeing how we can interface with other governments. Frankly, this statement should frighten American citizens who believe in upholding our Constitution, and I hope it will get the attention of my colleagues. Certainly the President has the right to nominate anyone he wants, but it is our role as the Senate to provide advice, and in this case I think disclosure to the American people, of this nominee and how he might direct our State Department activities.

In 2002, in a hearing before the Senate Committee on Foreign Relations, Mr. Koh testified in support of ratification of the United Nations Treaty on the Convention of the Elimination of All Forms of Discrimination Against Women. Not only did Mr. Koh testify in support of ratifying this treaty, he opposed any conditions to ratification of the treaty, even those proposed by the Clinton administration. This included the very important condition stating that the treaty is not self-executing; that it has no domestic legal effect absent an act of Congress.

Our rules here are that the President can sign a treaty, but it has to be ratified here in the Senate before it is executed. To insist that once this is agreed to by the administration it becomes self-acting violates those principles.

Mr. Koh also claims that allegations by those who opposed the treaty due to its promotion of abortion, the legalization of prostitution, and the abolishment of Mother's Day are untrue. However, one only needs to look at the policies issued by the committee—the United Nations body charged with monitoring countries' compliance with their legal obligations under the treaty—to know that Mr. Koh's claims are untrue.

For example, on May 14, 1998, the committee interpreted the treaty to require that ''all states of Mexico should review their legislation so that, where necessary, women are granted access to rapid and easy abortion.''

In February 1999, the same committee criticized China's law criminalizing prostitution and recommended that China take steps to legalize it.

This does not represent American values.

Also, in February 2000, the committee made the following outrageous statement regarding Belarus's celebration of Mother's Day:

The Committee is concerned by the continuing prevalence of sex-role stereotypes and by the reintroduction of such symbols as a Mothers' Day and a Mothers' Award, which it sees as encouraging women's traditional roles.

As these former Soviet republics, countries all over the world, are looking to America for guidance as they develop their democracies and institutions of freedom, these kinds of statements coming out of the United Nations are concerning, and I certainly don't want this same philosophy coming out of our own State Department.

How can anyone argue that ratification of a radical treaty such as we have discussed will not undermine sovereignty? It is pretty obvious it would.

In a speech entitled ''A World Drowning in Guns,'' published in the Fordham Law Review in 2003, Mr. Koh states:

If we really do care about human rights, we have to do something about the guns.

That ''something'' is a ''global system of effective controls on small arms.''

In that same speech, Mr. Koh also expressed his disappointment that the 2001 United Nations gun control conference had not led to a legally binding document. He urged that the next steps be the creation of international arms registries, giving nongovernmental organizations, such as the International Action Network on Small Arms, power to monitor government compliance with international gun control and stronger domestic regulation.

In a May 4 column in Human Events, Brian Darling of the Heritage Foundation writes:

Koh advocated an international ''marking and tracing regime.'' He complained that the ''United States is now the major supplier of small arms in the word, yet the United States and its allies do not trace their newly manufactured weapons in any consistent way.'' Koh advocated a United Nations governed regime to force the U.S. ''to submit information about their small arms production.''

Dean Koh supports the idea that the United Nations should be granted the power to ''standardize national laws and procedures with member states of regional organizations.'' Dean Koh feels that the U.S. should ''establish a national firearms control system and a register of manufacturers, traders, importers, and exporters'' of guns to comply with international obligations. This regulatory regime would allow the United Nations members such as Cuba and Venezuela and North Korea and Iran to have a say in what type of gun regulations are imposed on American citizens.

This is not constitutional government in America.

Taken to their logical conclusion, Dean Koh's ideas could lead to a national database of all firearm owners, as well as the use of international law to force the U.S. to pass laws to find out who owns guns. All who care about freedom, should read his speech. Senators need to think long and hard about whether Koh's extreme views on international gun control are appropriate for America.

Let me cover a couple of other things. This one is about the Iraq war. Mr. Koh published a commentary in the Hartford Courant on October 20, 2002, entitled ''A Better Way to Deal With Iraq.'' Here is an excerpt from that article.

I believe that terrorism poses a grave threat to international peace and security. I lost friends on September 11 and have shared in the grief of their families. I believe that Saddam Hussein is an evil and dangerous man who daily abuses his own people and who wishes no good for our country or the world. I fear his weapons of mass destruction and believe they should be eliminated. Yet I believe just as strongly that it would be a mistake for our country to attack Iraq without explicit United Nations authorization. I believe such an attack would violate international law.

We need to think for a minute and digest what this means. Even though Mr. Koh believed that attacking Iraq would be in the best interest of America and the world, he believed we should wait on explicit directions from the United Nations before we acted. Both this commentary and his testimony before the Senate Committee on Foreign Relations demonstrate that Mr. Koh believes that if our President and Congress, empowered by our Constitution, decide military action is needed to defend our Nation from harm, we must get United Nations approval or our actions are illegal. This is an incredible position for the chief legal adviser to the State Department to adhere to.

Some may argue that Mr. Koh's position on the Iraq war is merely a principled liberal position. However, his belief that countries——

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. DEMINT. Mr. President, I ask unanimous consent for 1 more minute to conclude.

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

Mr. DEMINT. Mr. President, I encourage my colleagues to look at the record. Mr. Koh has a very winsome personality, which I appreciate, but the record gives us many reasons for concern that the State Department may not be acting in the best interests of our country under his legal counsel.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT REQUEST—H.R. 2918

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 84, H.R. 2918, which is the legislative branch appropriations bill; that once the bill is reported, the committee substitute amendment which is at the desk and is the text of S. 1294, as reported by the Senate Appropriations Committee, be considered and agreed to; that the bill, as thus amended, be considered original text for the purpose of further amendment, provided that points of order under rule XVI be preserved; provided further that points of order under the Budget Act and budget resolutions be preserved to apply as provided in those measures.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. Reserving the right to object, Mr. President, I have no problem going to this bill, but we have been working with Members on our side on a finite list of amendments that we wish to be considered on this bill. I am happy to work with the distinguished leader to obtain an agreement, and if he wishes me to cover some of those amendments today, I will. But at this point I will object to the motion to proceed and hope that we can work out an agreement.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I say to my colleague, you can offer any amendments you want. We don't care. We just want to get on the bill. And if we can do it, we will be happy to work with the Senator from South Carolina at that time to come up with a list of amendments. The amendments are all governed under rule XVI.

Mr. President, I have a letter here. I have all day held off reading it. It is a letter signed by every Republican Senator, including the Senator from South Carolina. Let me read this letter written to me, dated March 24.

Dear Majority Leader Reid, As you develop the legislative calendar for the rest of this fiscal year we believe it is critical to allocate an appropriate amount of time for the Senate to consider, vote and initiate the conference process on each of the 12 appropriations bills independently through a deliberative and transparent process on the Senate floor.

For a variety of reasons, over the past several years, the Senate has failed to debate, amend and pass each of the bills separately prior to the end of the fiscal year. Far too often this has resulted in the creation of omnibus appropriations bills that have been brought to the floor so late in the fiscal year that Senators have been forced to either pass a continuing resolution, shut down government or consider an omnibus bill. These omnibus bills have not allowed for adequate public review and have clouded what should otherwise be a transparent process. As our President said on March 11, 2009, he expects future spending bills to be '' . . . debated and voted on in an orderly way sent to [his] desk without delay or obstruction so that we don't face another massive, last minute omnibus bill like this one.''

The Senate should begin floor consideration of the appropriations bills during the early summer months to ensure that an appropriate amount of time is available to examine, debate and vote on amendments to the bills. We believe the Senate should pass at least eight of the appropriations bills by the August recess. In order to press for a more transparent process, we will consider using all available procedural tools to guarantee regular order for appropriations bills.

Noting our intentions, we hope you will plan accordingly as you work with the leadership of the House to develop the legislative calendar for the rest of this fiscal year. Thank you for your time and consideration.

It is signed by every one of the Republicans, including my friend from South Carolina.

I have here the manager of this bill, the wild-eyed liberal from Nebraska, BEN NELSON. If this is not a place to start—there is no one who has a more measured voice than the Senator from Nebraska. He is an experienced legislator. He has been Governor of his State. He understands problems, and he is a fine person. Why can't we move to this bill?

I say to my friend from South Carolina, we are happy to work on a finite list of amendments, but all we want to do is legislate. We want to get on this bill. The manager of the bill is here. This man has been here for days—well, that is not true, since yesterday—to go to this piece of legislation.

I hope my friend will allow us to go to this bill. We will work with him. Senator NELSON is one of the most reasonable people I have ever worked with. I do not see what fear my friend from South Carolina should have going to the bill. We have no games we are playing. We are not going to try to cut anybody off offering amendments. There will come a time, perhaps, when I talk to the Republican leader and say: Have we had enough of this?

Mr. DEMINT. I say to the Senator, I am prepared to grant a unanimous consent to move ahead right now if I can be guaranteed seven amendments: three by myself, two by Senator COBURN, and two by Senator VITTER. I will be glad to describe what those are if you like?

Mr. REID. I say to my friend, as I told the Senator in my opening statement, the appropriations bills have a little different rules than just a regular bill. But we are happy to work with him. I am curious to find out what amendments he is interested in.

Would you run over them with me?

Mr. DEMINT. Yes, I will be glad to. Again, this is a trust but verify.

Mr. REID. Just give me the general subject.

Mr. DEMINT. We had a few problems getting amendments on some other bills, so I just want to make sure we are in agreement and there are no surprises. I have three amendments we would like. One is related to the Capitol Visitor Center. The other is related to rescinding unspent stimulus money. And the other is asking for a GAO audit of the Federal Reserve.

Senator VITTER has an amendment related to, I believe, our pay raises, as well as a motion to recommit the—I guess he is going to have to explain that one to me.

Mr. REID. I understand that one.

Mr. DEMINT. Senator COBURN has a transparency of Senate expenses amendment as well as something about enumerated powers.

Mr. REID. I am sorry, minority powers?

Mr. DEMINT. Enumerated powers. The minority has no powers. But this is enumerated powers of the Constitution.

These are our amendments. If we can just get agreement now that these can be included, we will be glad to proceed.

Mr. REID. I say to my friend, I served as chairman of the subcommittee for quite a number of years and enjoyed it very much. It appears the GAO one, from the knowledge I have, will be within the confines of this bill very clearly.

Let's see, what else? The CVC, Capitol Visitor Center, I think that would be—I am looking to Senator NELSON. I think the Capitol Visitor Center would be in keeping with what we have in this bill.

The point is, without going into every detail at this time, anything that is not something that is subject to a rule XVI or some other problem because it is an appropriations bill, we are happy to work with the Senator. We have no problem. But as far as guaranteeing votes, I cannot do that because somebody may want to offer a second-degree.

Mr. DEMINT. I understand the leader's position. I will object and agree to work with you in the next few hours or tomorrow if we can get general agreement and perhaps some compromise if that is possible. We certainly don't want to hold this up, but we would like to participate in the debate with a few amendments.

Mr. REID. Mr. President, I understand the Senator is going to object. I do say you cannot have—we want to go to the bill. We want to play by the rules. As it says here:

In order to press for a more transparent process, we will use all available procedural tools to guarantee regular order for appropriations bills.

I want regular order on appropriations bills.

I think the Senator could check with his own floor staff; I can't guarantee votes. I can't guarantee these matters are germane because we have different rules on appropriations bills.

I think it is another indication of where we are just wasting time, the people's time. I made my case. I will come here tomorrow and try again. We are happy to work with the Senator from South Carolina.

I say to my friend from South Carolina, I understand he is well meaning. I understand that. The Senator is not a sinister person or trying to do something that is evil or bad. But I just think sometimes we would be better off, as indicated in the letter I received from you, just going to the bill and following the regular order. That is what I want to do.

Mr. DEMINT. If the Senator will yield for clarification, regular order would be motion to proceed, debate, cloture. What we are trying to do is shortcut the regular order with unanimous consent, which I am very willing to grant, with some assurances that we will have some amendments.

I think, just for clarification, if we went through the regular order—I think the request is to bypass regular order. I am more than willing to agree to that if we can get some assurances we will have amendments.

Mr. REID. The Senator has every assurance you will have amendments. I repeat, there are certain things I cannot agree to and some may want to file a second-degree amendment to an

amendment that you offer. But I will be happy to have my staff work with you through the evening and see what we can come up with.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, I thank the leader for reading the letter I sent to him some time ago. I thank him for actually trying to bring forth an appropriations bill. I hope we can figure out some resolve. I think it is very important to our country that we actually go through an appropriations process that is thoughtful. I thank you for doing that today.

Mr. REID. Will my friend yield for just a brief comment? I want to go to the bill. I want to follow regular order. That is what I was asked to do. I am happy to have my staff work through the night to see if we can agree on a finite list of amendments. I hope we can do that.

Senator NELSON is the man to do that. He is a wonderful person, as I have already said. I am just disappointed it is such a struggle to get things done.

Mr. CORKER. Mr. President, if I could talk back to the respected leader, I thank him for bringing it forward. I do think it is important we work through eight bills before the recess begins, and I hope over the next couple of hours he and the distinguished Senator from South Carolina can reach some resolve that is an accommodation and we can move through this.

I thank the Senator very much for his patience.

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

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

KOH NOMINATION

Mr. SPECTER. Mr. President, I have sought recognition to speak on behalf of Dean Harold Koh, dean of the Yale Law School, for confirmation to the position of Legal Adviser to the Department of State. I know Dean Koh personally. I have known him for more than a decade while he has taught at Yale and been the dean of the Yale Law School. He spoke at a class reunion. I was in the Yale Law School class of 1956 and hosted a reunion here in the Capitol on June 6, 2008. He was greeted by a number of prominent Members of the Senate at that time. I make these comments about my personal association with him in the interest of full disclosure, but the thrust of my recommendation is based upon his extraordinary record.

Harold Koh graduated from Harvard College, also Harvard Law School. He graduated Harvard College summa cum laude in 1975. He was Marshall Scholar at Oxford University, where he got a master's degree in 1977. He graduated cum laude from the Harvard Law School in 1980, where he was developments editor of the Harvard Law Review. He then clerked for Judge Richard Wilkey in the Court of Appeals for the District of Columbia, then for Supreme Court Justice Harry Blackmun. He then worked as a lawyer with the distinguished Washington firm Covington & Burling and then as Attorney-Adviser in the Department of Justice's Office of Legal Counsel. He then served in the Clinton administration as Assistant Secretary of State, was unanimously confirmed by the Senate, and served there from 1998 to 2001 when he returned to the Yale Law School, becoming its dean some 5 years ago.

He comes from a very distinguished family. His father was the first Korean lawyer to study in the United States. He attended Harvard Law in 1949. He was then counsel for—the father, that is—for the first Korean democratic government. When a military coup occurred, he left that position. He was the first Korean to teach at the Yale Law School in 1969.

Dean Koh has an extraordinary record. His curriculum vitae fills 8 pages of very small print. He has a long list of honorary degrees. He received a number of medals. His list of honors and awards goes on virtually indefinitely; his publications, books, and monographs occupy six and a half pages; his selected legal activities, another half a page; lectures that he performed, many; teaching activities, voluminous; boards of editors, professional affiliations, presentations, workshops, boards, bars, member of the bars with which he is associated.

I ask unanimous consent to have this full text printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SPECTER. It is going to be extensive, but it is worth it. I have been a Member of this body for some time. I have never seen anyone with this kind of a resume. And I am going to ask Senator BYRD the next time I see him if he knows of anybody who has a resume which is this extensive and this impressive.

When you characterize the best and the brightest, Harold Koh would be at the top of the list. It would be hard to find anybody with a better record than Dean Harold Koh. His experience in international law is extensive, as in human rights. He would be an ideal Legal Adviser to the Department of State with his background and his experience. He has judgment, and he has balance. From my personal knowledge, I have total confidence that he will apply his legal knowledge and his background in a wise and sagacious way. He testified before the Judiciary Committee when I chaired the committee and in every way is exemplary.

It is a little surprising to me that it is necessary to have a cloture vote, to have 60 votes to take up the nomination of Dean Koh. But considering the politics of Washington and considering the politics of the Senate, perhaps we should not be surprised at anything. But having a very high surprise threshold, I say that I am surprised Dean Koh would require 60 votes to reach a confirmation vote. I urge anybody who has any doubts about the caliber of this man to get out their glasses, or you may need a magnifying glass to read all of his accomplishments. But certainly it would be a travesty if a man such as this was not confirmed.

In an era where we are trying so hard to bring quality people into government and so many people shun government because of the hoops and hurdles someone has to go through—Dean Koh would be exhibit A of the hoops and hurdles—it would be very discouraging for anybody else applying for a position which requires Senate confirmation. As strongly as I can, I urge his confirmation.

EXHIBIT 1

YALE LAW SCHOOL

EMPLOYMENT

2004: Dean of Yale Law School

1993: Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School (Procedure, International Human Rights, International Business Transactions, Constitution and Foreign Affairs, International Trade, International Organizations, International Law and Political Science)

1998–2001: Assistant Secretary of State for Democracy, Human Rights and Labor United States Department of State; Commissioner, Commission for Security and Cooperation in Europe; U.S. Delegate or Head of Delegation to United Nations General Assembly (Third Committee), the United Nations Human Rights Commission, the Organization of American States, the Council of Europe, the Organization for Security and Cooperation in Europe, the U.N. Committee Against Torture, Inaugural Community of Democracies Meeting (Warsaw 2000); U.N. Conference on New and Restored Democracies (Cotonou, Benin 2000)

1993–1998: Director, Orville H. Schell Jr., Center for International Human Rights, Yale Law School

1996–97: Visiting Fellow, All Souls College, Oxford University and Waynflete Lecturer, Magdalen College, Oxford University

1993: Visiting Professor, Hague Academy of International Law

1990–93: Professor, Yale Law School

1990, 2002: Visiting Professor of International Law, Faculty of Law, University of Toronto (intensive courses in international business and human rights law)

1985–90: Associate Professor, Yale Law School

1983–85: Attorney-Adviser, Office of Legal Counsel, United States Department of Justice

1982–85: Adjunct Assistant Professorial Lecturer in Law, George Washington University National Law Center

1982–83: Associate, Covington & Burling, Washington, DC

1981–82: Law Clerk to Hon. Harry A. Blackmun, Associate Justice, United States Supreme Court

1980–81: Law Clerk to Hon. Malcolm Richard Wilkey, Circuit Judge, United States Court of Appeals, D.C. Circuit

1978–79: Teaching Fellow, First-Year Legal Methods Program, Harvard Law School (Contracts and Civil Procedure)

DEGREES

1980: Harvard Law School, J.D. cum laude
Developments Editor, Harvard Law Review; Tutor, Mather House, Harvard College
1977: Magdalen College, Oxford University, Honours B.A. in Philosophy, Politics & Economics with First-Class Honours; (M.A. 1996); Marshall Scholar; Magdalen College Underhill Exhibitioner; President, Magdalen College Middle Common Room
1975: Harvard College, Harvard University A.B. in Government, Summa Cum Laude; Phi Beta Kappa; Harvard National Scholar; Charles Bonaparte Scholar (Outstanding Junior Government Major); Harvard Club of Southern Connecticut Distinguished Senior; National Merit Scholar; State of Connecticut Scholar

HONORARY DEGREES

2009: New School for Social Research
2008: Iona College
2008: Jewish Theological Seminary
2005: University of Hartford
2005: Widener School of Law
2002: Doctor of Laws, Skidmore College
2001: Doctor of Laws, Connecticut College
2000: Doctor of Laws, University of Connecticut; Doctor of Humane Letters, Dickinson College
1999: Doctor of Laws, Suffolk Law School; Doctor of Humane Letters, Albertus Magnus College
1998: Doctor of Laws, CUNY-Queens Law School
1990: M.A., Yale University

MEDALS

2008: Western New England School of Law
2004: Presidential Medal, Central Connecticut State College
2000: Villanova Medal, Villanova Law School
2000: Arthur J. Goldberg Award, Jacob Fuchsberg Law Center, Touro Law School

OTHER HONORS AND AWARDS

2008: Judith Lee Stronach Human Rights Award, given for outstanding contribution to global justice by the Center for Justice and Accountability, San Francisco 7th Annual Sengbe Pieh Award, First and Summerfield United Methodist Church
IRIS Human Rights Award
2007: Green Bag Award for ''exemplary writing in a long article'' Green Bag Almanac and Reader (2007)
2007, 8, 9 Lawdragon 500 Leading Lawyers in America
2007–08: Connecticut Bar Association Young Lawyers Section Diversity Award
2007: Pacific Islander, Asian, and Native American (PANA) Distinguished Service Award
2006: Philip Burton Award for Advocacy, Immigrant Legal Resource Center
2006: Boston College 75th Anniversary Celebration Law School's Distinguished Service Award
Asian American Bar Association of New York Award
The Asian American Law Students Association (Pace Law School) Award of Distinction
2006: Named one of the Top Connecticut Super Lawyers by Connecticut Magazine (International Law)
2005: Louis B. Sohn Award, given by the International Law Section of the American Society of International Law for Lifetime Achievement in International Law
2005: Equal Access to Justice Award, New Haven Legal Assistance
2005: Allies for Justice Award
ABA National Lesbian and Gay Law Association
100 Most Influential Asian Americans of the 1990s, A Magazine
2002: Wolfgang Friedmann Award, given by Columbia Journal of Transnational Law ''to an individual who has made outstanding contributions to the field of international law''
2002: Connecticut Bar Association Distinguished Public Service Award
2002: John Quincy Adams Freedom Award, Amistad America
2001: Korean American Coalition Public Service Award
2000: Institute for Corean-American Studies Liberty Award
1999; 1994: FACE (Facts About Cuban Exiles) Excellence Award
1997: Public Sector 45'' (45 leading American Public Sector Lawyers Under the Age of 45), American Lawyer Magazine
1997: Named one of nation's leading Asian-American Educators, Avenue Asia Magazine
Asian-American Lawyer of the Year, Asian-American Bar Association of New York
1995: Trial Lawyer of the Year Award, Trial Lawyers for Public Justice (co-recipient)
1994: Cuban-American Bar Association
1994: Political Asylum Immigration Representation Project
1994: Asian-American Lawyers of Massachusetts
1994: Haiti 2004
1994: Korean-American Alliance
1993: Asian Law Caucus
1993: Asian-American Legal Defense & Education Fund, Justice in Action Award
1992: Co-recipient, American Immigration Lawyers' Association Human Rights Award
1991: Richard E. Neustadt Award, Presidency Research Section, American Political Science Association

FELLOWSHIPS

Fellow, American Philosophical Society (2007–); Honorary Fellow, Magdalen College (2002–); Fellow, American Academy of Arts and Sciences (2000–); Guggenheim Fellow (1996–97); Twentieth Century Fund Fellow (1996–), Visiting Fellow, All Souls College, Oxford (1996–97); James Cooper Lifetime Fellow, Connecticut Bar Association (2006–)

PUBLICATIONS

BOOKS AND MONOGRAPHS

Transnational Litigation in United States Courts (2008) (Foundation Press)
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Transnational Legal Problems (with Henry Steiner & Detlev Vagts) (Foundation Press 4th ed. 1994) and Documentary Supplement (1994)
The National Security Constitution: Sharing Power After the Iran-Contra Affair (Yale University Press 1990) (Winner, Richard E. Neustadt Award, awarded by the Presidency Research Section, American Political Science Association, to the best book published in 1990 that contributed most to research and scholarship on the American Presidency)
Justice Harry A. Blackmun Supreme Court Oral History Project, Federal Judicial Center/Supreme Court Historical Society (Editor 1996) (public release 2004)

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Tom Eagleton: True Senator, 52 SLU L. Rev. 1 (2007)
Preface to Eugene Fidell, Beth Hillman & Dwight Sullivan, Military Justice: Cases and Materials (2007)
Preface to William J. Aceves, The Anatomy of Torture: A Documentary History of Filártiga v. Peña-Irala (2007)
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The Bright Lights of Freedom, NPR: THIS I BELIEVE, Jay Allison & Dan Gediman, eds., (New York: Henry Holt & Company, 2006) 141–143; paperback edition (2007)
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A World Drowning in Guns, INTERNATIONAL LAW AND INTERNATIONAL RELATIONS: BRIDGING THEORY AND PRACTICE, Thomas J. Biersteker, Peter J. Spiro, Chandra Lekha Sriram, and Veronica Raffo, eds., (London: Routledge Press, 2006) 59
Louis B. Sohn: Present at the Creation, Harvard International Law Journal, 2006
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''Standing Together,'' 15 Law & Sexuality, 15:1

''Internalization Through Socialization,'' Duke L.J. 54: 975 (2005)

''Commentary: A World Drowning in Guns,'' in International Law and International Relations 59–76 (Thomas Biersteker, Veronica Raffo, Peter Spiro and Chandra Sriram, eds Routledge 2006)

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SELECTED CONGRESSIONAL TESTIMONY

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Testimony before the House Foreign Relations Committee regarding ''The 2006 Country Reports on Human Rights Practices and the Promotion of Human Rights in U.S. Foreign Policy'' (March 29, 2007)

Testimony before the Senate Committee on the Judiciary regarding ''Hamdan v. Rumsfeld: Establishing a Constitutional Process'' (July 11, 2006)

Testimony before the Senate Committee on the Judiciary regarding ''Wartime Executive Power and the National Security Agency's Surveillance Authority'' (February 28, 2006)

Testimony before the Senate Judiciary Committee regarding ''The Nomination of the Honorable Alberto R. Gonzales as Attorney General of the United States'' (January 7, 2005)

Testimony before the House Committee on International Relations regarding ''A survey and analysis of supporting human rights and democracy: The U.S. record 2002—2003'' (July 9, 2003)

''United States Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women,'' Hearing Before the U.S. Senate Foreign Relations Committee (June 13, 2002)

''Human Rights in Turkey,'' Hearing before the Commission on Security and Cooperation in Europe, Washington, DC (March 9, 2000).

''Country Reports on Human Rights Conditions,'' Testimony before the Subcommittee on International Operations and Human Rights, U.S. House of Representatives Washington, DC, (March 8, 2000).

''The Global Problem of Trafficking in Persons: Breaking the Vicious Cycle,'' Hearing Before the House Committee on International Relations (Sept. 14, 1999)

''Human Rights at the End of the 20th Century,'' Hearing before the Commission on Security and Cooperation in Europe; Washington, DC, (March 17, 1999).

''Country Reports on Human Rights Conditions,'' Testimony

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''Human Rights in China,'' Testimony International Operations and Human Rights, U.S. House of Representatives, Washington DC (January 20, 1999)

''U.S. Policy Toward Haiti'': Hearing Before the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Senate Committee on Foreign Relations, 103d Cong. 2d Sess. (Mar. 8, 1994)

''The Nonrefoulement Reaffirmation Act of 1992,'' House Foreign Affairs Committee (June 11, 1992)

''U.S. Human Rights Policy Toward Haiti,'' Hearing before Legislation and National Security Subocmmittee; House Government Operations Committee, 102nd Cong., 2nd Sess. 97 (April 9, 1992)

''The Constitutional Roles of Congress and the President in Waging and Delcaring War,'' Senate Judiciary Committee (January 8, 1991)

''Executive-Congressional Relations in a Multipolar World,'' Hearings Before the Senate Foreign Relations Committee, 101st Cong., 2d Sess. 92 (Nov. 26, 1990)

Testimony on H.R. 3665, the Official Accountability Act, before the House Judiciary Committee, Subcommittee on Criminal Justice, (June 15, 1988)

AWARDS AND HONORS

100 Most Influential Asian Americans of the 1990s, A Magazine; Named to the APublic Sector 45'' (45 leading American Public Sector Lawyers Under the Age of 45), American Lawyer Magazine (1997); Connecticut Bar Association Distinguished Public Service

Award (2002); John Quincy Adams Freedom Award, Amistad America (2002); Korean American Coalition Public Service Award (2001); Honorary Citizenship, Pukcheju, Republic of Korea (1999); Institute for Corean-American Studies Liberty Award (2000); FACE (Facts About Cuban Exiles) Excellence Award (1999, 1994); Named one of nation's leading Asian-American Educators, Avenue Asia Magazine (1997); Asian-American Lawyer of the Year, Asian-American Bar Association of New York; 1995 Trial Lawyer of the Year Award, Trial Lawyers for Public Justice (co-recipient); Cuban-American Bar Association (1994); Political Asylum Immigration Representation Project (1994); Asian-American Lawyers of Massachusetts (1994); Haiti 2004 (1994); Korean-American Alliance (1994); Asian Law Caucus (1993); Asian-American Legal Defense & Education Fund, Justice in Action Award (1993); Co-recipient, American Immigration Lawyers' Association 1992 Human Rights Award; Richard E. Neustadt Award, Presidency Research Section, American Political Science Association (1991)

SELECTED LEGAL ACTIVITIES

Secretary of State's Advisory Committee on Public International Law (1994–98)

Editor, Justice Harry A. Blackmun Supreme Court Oral History Project, Federal Judicial Center/Supreme Court Historical Society (1994–96)

Co-author, Law Professors= Letter to Senate Judiciary Committee Regarding Military Commission, December 5, 2001, available at http://www.yale.edu/lawweb/liman/letterleahy.pdf

Counsel for U.S. Diplomats Morton Abramowitz, et al, Amicus Curiae in McCarver v. North Carolina, No. 00–8727 (U.S. cert. Dismissed Sept. 25, 2001) and Atkins v. Virginia (No. 00–8452) (U.S. argued Feb. 20, 2002) (arguing that execution of those with mental retardation violates Eighth Amendment's cruel and unusual punishments clause)

Consultant, United Nations High Commissioner on Refugees Global Consultations on reformation of the UN Refugee Convention, Cambridge University (Summer 2001)

Arbitrator, Binational Dispute Settlement Panel Convened Under Chapter 19 of the U.S.-Canada Free Trade Agreement, No. U.S.A.–93–1904–05, In re Certain Flat-Rolled Carbon Steel Products from Canada (Nov. 4, 1994)

Co-founder (with Michael Ratner), Allard K. Lowenstein International Human Rights Clinic at Yale Law School (1991-)

Counsel for respondents, Royal Dutch Petroleum Co. v. Ken Wiwa, et al., (U.S. S.Ct., No. 00–1168, cert. denied March 26, 2001)

Of counsel and oralist for plaintiffs, Cuban-American Bar Ass'n v. Christopher, 43 F.3d 1413 (11th Cir. 1995) (For work done on this case, received 1994 Human Rights Award from Cuban-American Bar Ass'n)

Lead counsel for plaintiffs, Sale v. Haitian Centers Council, Inc., 113 S.Ct. 2549 (1993), 823 F.Supp. 1028 (E.D.N.Y. 1993), and 969 F.2d 1326 (2nd Cir. 1992) (For work done on this case, recognized by Haiti 2004, Korean-American Alliance, Political Asylum Immigration Representation Project and as co-recipient, 1993 Justice in Action Award, Asian-American Legal Defense and Education Fund; Co-recipient, 1992 Human Rights Award, American Immigration Lawyers' Association; Asian Law Caucus)

Co-counsel for petitioners, In re civilian population of Chiapas, Mexico and certain Members of the Ejercito Zapatista de Liberacion Nacional (Inter-American Commission on Human Rights) (filed January 27, 1994); In re Haitian population of Bahamas

Co-counsel for plaintiffs, Doe v. Karadzic, 70 F. 3d 232 (1995); 176 F.R.D. 458 (S.D.N.Y. 1997) (represented from filing of complaint until 1998, when withdrew from representation to join U.S. government; after a two-week jury trial in September 2000, a jury awarded plaintiffs approximately $ 4.5 billion in compensatory and punitive damages); Greenpeace, Inc. (U.S.A.) v. France, 946 F. Supp. 773 (C.D. Cal. 1996); Paul v. Avril, 812 F. Supp. 207 (S.D. Fla. 1993) ($41 million judgment awarded); Todd v. Panjaitan, No 92–12255WD (D. Mass. decided October 25, 1994) ($14 million judgment awarded); Xuncax v. Gramajo, No. 91–11564WD (D.Mass., filed June 6, 1991); Ortiz v. Gramajo (D.Mass. 1992)($47.5 million judgment awarded); Doe v. Karadzic, 866 F. Supp. 734 (1994); No. 94–9035 (2d Cir. 1995); Belance v. FRAPH, No. 94–2619 (E.D.N.Y.) (Nickerson, J.) (For work done on Avril and Gramajo cases, named as co-recipient, 1995 Trial Lawyer of the Year Award, by the Trial Lawyers for Public Justice)

Amicus Curiae, U.S. Supreme Court, Argentine Republic v. Amerada Hess (1990); United States v. Alvarez-Machain, (1992); Nelson v. Saudi Arabia, No. 91–522 (1993); Jaffe v. Snow, No. 93–241 (1993); Trajano v. Marcos, 978 F.2d 493, 499–500 (9th Cir. 1992), cert. denied, 113 S. Ct. 2960 (1993); No. 93–9133 Negewo v. Abebe-Jira, 11th Cir. 1995; Abebe-Jiri v. Negewo, No. 90–2010, Slip Op. at 7 (N.D. Ga. Aug. 20, 1993)

Co-author (with ten other constitutional law scholars) of Memorandum Amicus Curiae of Law Professors in Ronald v. Dellums v. George Bush (D.D.C. 1990), reprinted in 27 Stanford Journal International Law 257 (1991); (with nine other constitutional law scholars) of Correspondence With Assistant Attorney General Walter Dellinger re Legality of United States Military Action in Haiti, reprinted in 89 American Journal International Law 127 (1995)

Co-author (with David Cole and Jules Lobel), ''Interpreting the Alien Tort Statute: Amicus Curiae Memorandum of International Law Scholars and Practitioners in Trajano v. Marcos,'' 12 Hastings Int'l & Comp. L. Rev. 1 (1988) (published Amicus Curiae Brief on behalf of nineteen international law scholars and practitioners in international human rights case)

Co-author, Brief Amicus Curiae Urging Denial of Certiorari, Tel-Oren v. Libyan Arab Republic, reprinted in 24 I.L.M. 427 (1985) (as Justice Department Attorney)

Litigation before Iran-U.S. Claims Tribunal, Case No. 55, Amoco Iran v. Islamic Republic of Iran (as Private Practitioner)

Co-counsel for Iranian Hostages in Persinger v. Iran (D.C. Cir. 1982) and Cooke v. United States (Cl. Ct. 1982) (as Private Practitioner)

Litigation before International Court of Justice in Nicaragua v. United States, 1986 I.C.J. 14 (as Justice Department Attorney)

NAMED LECTURES

Cecil Wright Lecture, University of Toronto School of Law (2002); Korematsu Lecture, New York University School of Law (2002); George Wythe Lecture, William and Mary College of Law (2002); Robert Levine Lecture, Fordham Law School (2002); Frank Strong Lecture, Ohio State University School of Law (2002); Barbara Harrell-Bond Lecture, Oxford University (2001); Edward Barrett Lecture, University of California at Davis School of Law (2001); Bruce Klatsky Lecture, Case Western Reserve University School of Law (2001); Richard Childress Lecture, St. Louis University School of Law (2001); Frankel Lecture, University of Houston Law Center (1998); Harris Lecture, University of Indiana Law School (1998); Scuola Santa Anna (Pisa, Italy) (1997); Bartlett Lecture, Yale Divinity School (1997); Waynflete Lectures, Magdalen College, Oxford University (1996); Enrichment Lecturer, George Washington University National Law Center (1995); Scholar-in-Residence, Hofstra University (1995); Ralph Kharas Lecture, Syracuse University (1995); Mason Ladd Lecture, Florida State University (1995); 1995 Martin Luther King Lecture, Smithsonian Institution (1995); Roscoe Pound Lecture, University of Nebraska College of Law (1994); Emmanuel Emroch Lecture, University of Richmond Law School (1994); George Allen Distinguished Visiting Professor, University of Richmond Law School (1994); Roy R. Ray Lecture, Southern Methodist University School of Law (1994); William H. Leary Lecture, University of Utah Law School (1993); Convocation Lecturer, Duke Law School (1993); McGill Law School (1993); Gerber Lecture, University of Maryland (Baltimore) (1993). Commencement Addresses at Yale Law School (1987, 1989, 2000), Skidmore College (2002); University of Connecticut School of Law (2000); Dickinson College (2000); Villanova Law School (2000); Touro College of Law (2000); Albertus Magnus College (1999); NYU Law School (1999); University of Maryland (Baltimore) School of Law (1995)

TEACHING ACTIVITIES

Faculty Member, Oxford/George Washington University Joint Programme in International Human Rights Law, New College Oxford, 1996, 1998, 2002; American University Human Rights Academy 2001; Aspen Institute, Law and Society Program (Moderator 2001; Harry Blackmun Fellow, 1992); Aspen Institute, Seminar for Judges on International Human Rights: Its Application in National Jurisprudence, Wye Plantation (1994, 95, 98); Federal Judicial Center, ''The Role of International Law in the U.S. Courts (March 1994); Faculty Member, American Law and Legal Institutions, Salzburg Seminar, Salzburg, Austria (1991); Center for National Security Studies National Security Law Institute for Professors (1991, 1992); Distinguished Visitor, The Policy Study Group, Tokyo, Japan (1990)

BOARDS OF EDITORS

Editorial Board, University Casebook Series, Foundation Press (1993–98, 2001–); American Journal of International Law (1992–); Editorial Review Board, Human Rights Quarterly (1994–96); Advisory Committee, Journal of Legal Education (1991–94); Editorial Advisory Board, Human Rights Watch World Report (Yale University Press)

PROFESSIONAL AFFILIATIONS

Executive Council, American Society of International Law (1998–present); Chair, Nominating Committee, American Society of International Law (1998); National Council, Lawyers Committee for Human Rights (1997–98); Legal Advisory Committee, Connecticut Civil Liberties Union (1997–98); The Benchers (1994–); Coordinating Committee for Immigration, American Bar Association (1993–5); Oversight Committee, University of California at Berkeley School of Law (1991); American Society of International Law Board of Review and Development (1989–91); Advisory Board, Center for National Security Studies, American Civil Liberties Union (1991–93); Member, Executive Committee of International Law Section of American Association of Law Schools (1988–90); Member, Executive Committee of Civil Procedure Section of American Association of Law Schools (1991–93); Vice-Chair, International Legal Education Committee, American Bar Association Section of International Law and Practice (1991–93); Liaison Between ABA International Law Section and AALS (1990–91); Advisory Committee, Yale Center for International and Area Studies, Center for Western European Studies, International Security Program, International Relations Program, and Allard K. Lowenstein International Human Rights Project; Fellow, Timothy Dwight College

PRESENTATIONS AND WORKSHOPS

Faculty Workshops at more than twenty schools; scores of lectures and presentations on International Human Rights Law, U.S. Trade Policy and International Economic Law; International Litigation and Procedure; International and Foreign Affairs Law; European Community Law; Law Teaching; Immigration and Refugee Law; Asian-American Issues; and invited presentations at numerous judicial conferences and bar associations

BOARDS

Brookings Institution Board of Directors (2004–); Connecticut Bar Foundation Board of Directors (2004–05); Harvard University Overseer (2001–); Visiting Committee, Harvard Law School (1996–2002); Visiting Committee, Harvard Kennedy School of Government (2007–); Visiting Committee, University of Toronto Faculty of Law (2004); Board of Directors, American Arbitration Association (2007–); Board of Directors, Human Rights in China (2002–5); Member of Council, American Law Institute (2006–); Counselor, American Society of International Law, Washington, DC (honorary post; 2008–); Thomas J. Dodd Research Center National Advisory Board (2001–); Board, National Democratic Institute (2001–); Board of Human Rights First (formerly Lawyers Committee for Human Rights) (2001–); Board of Human Rights in China (2001–); Board of International Campaign for Tibet (2001–); Human Rights Watch (1994–98); Hopkins School (1997–); Interights (1996–98); St. Thomas's Day School (1993–96); Connecticut Civil Liberties Union (1993–7); Initiative for Public Interest Law at Yale (Chair, 1988–90); East Rock Institute (Secretary); YLS Early Learning Center (Treasurer 1987–88)

BARS

New York (1981); District of Columbia (1981); Connecticut (1985); U.S. Supreme Court (1985); U.S. Ct. App., Eleventh Circuit (1995); D.C. Circuit (1981); U.S. Dist. Ct., D.C. (1981); D. Conn. (1985); U.S. Claims Ct. (1983)

REFERENCES:

Hon. Malcolm R. Wilkey (ret.), Santiago, Chile, U.S. Ct. App. DC Cir. (Ret.)

Sen. Russell Feingold Washington, D.C.

Sen. Daniel Patrick Moynihan (ret.) Washington, D.C.

Judge Guido Calabresi U.S. Ct. App., 2d Cir.

Prof. Arthur R. Miller Harvard Law School

Larry L. Simms, Esq. Gibson, Dunn; Crutcher, D.C.

Peter D. Trooboff, Esq. Covington; Burling, D.C.

Mr. SPECTER. I yield the floor, and I suggest the asbence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. BEGICH. Without objection, it is so ordered.

ENUMERATED POWERS ACT

Mr. COBURN. Mr. President, I wish to spend a few minutes this evening to outline where we are and one possible solution to help us as a nation. We are on a course to double the debt in 4½ years. We are on a course to triple the debt over the next 10 years. Think of what that means for our children and our grandchildren. That is not President Obama's fault. I am probably one of the few Republicans who will say that. It is Congress's fault, because Presidents don't get to spend money we don't let them spend. We are the ones who offer the spending bills.

How did we get here? How did we get to the point where we are borrowing money that we don't have against our children's future to spend on things we don't need? It is simple. We have forgotten what the Constitution says. We have ignored the Constitution at almost every turn.

Today, myself and 17 other Senators introduced a bill which is called the Enumerated Powers Act. It goes back to article I, section 8 of the Constitution. Here is what it says. It very plainly lists the responsibilities of the Federal Government. When you think we are going to have a $3.6 trillion budget and a $2 trillion deficit this year—and that is real accounting; that is not Washington gimmick accounting—how did we get to where we could do that? How did we get to where we can put our children and grandchildren in such dire straits in their future? We got to it by ignoring the enumerated powers of the Constitution.

If you go to the textbooks and read the history, you will see that Madison wrote that section. If you read what he had to say about what he meant in article I, section 8 of the Constitution, he said, People are going to try to get around this. People are going to try to say it doesn't mean what it means. But, in fact, here is exactly what we mean. Anything that we don't want the Federal Government doing, we are going to specifically reserve for the States. That is where the 10th amendment came from in the Bill of Rights. Because you can't limit what the Federal Government does without saying, Here are the things that should be done, but they should be done under the authority of the people and the States.

When Ben Franklin left the Constitutional Convention in 1787, he was asked by somebody in the crowd: What did the convention produce? He said: It produced a republic. Then he said: If we can keep it.

Well, I can tell my colleagues that ''if'' is a great big word. We have a Medicare Program that over the next 30 years has a $39 trillion unfunded liability. So the factors I have mentioned already don't have anything to do with that. That is $39 trillion on top of $11.5 trillion today and $2 trillion more we are going to add to the debt this year. Then we have Social Security, which is unfunded. We have Medicare Part D that has an $11 trillion unfunded liability. Then we have Medicaid, which is about $17 trillion. So what we have basically done is abandoned what our Founders thought was prudent so we could enhance politicians. We put that big ''if'' up there for our kids and our grandkids.

The task of keeping a republic now falls to this Congress. It doesn't look bright. We passed a stimulus bill, $787 billion. By the time you count the interest rate over the next 10 years, it is $1 trillion. We passed an omnibus bill that increased spending by each branch of the government over 9 percent. We passed an emergency supplemental that had $24 billion in it that we didn't need, but we spent it, which will raise the baseline in future years, which will raise spending even further. The first appropriations bills coming out are a 7-percent or 8 percent increase when inflation has been a minus four-tenths of 1-percent increase.

The whole purpose behind this bill is to say when you write a bill in this Congress and any Congress that follows it, you have to know in that bill where you get the authority in the Constitution to spend this money or to authorize this program. You can still introduce a bill without it, but it creates a point of order that says a Senator can challenge that bill on the basis of what the Constitution says because you have not clearly stated in this new piece of legislation where you get the authority as a Member of the Senate to author it when, in fact, it is outside the authority given to us under the Constitution. The bill then sets up a debate on which the Senate will have to vote. I am not so naive as to believe I will win a whole lot of those, but I know I will win something, because the American people want to hear that debate, and that debate is something they are not hearing today.

They are not hearing our justifications why we can take freedom away and we can make a bigger, more powerful Federal Government that is going to borrow more money from their children to spend on things we don't need, money we don't have. The American people are entitled to hear the reasoning behind why we know so much better than they do, and to hear the reasoning why we can ignore the wisdom of our Founders in terms of our ability to grow the Federal Government.

The Federal Government is far too big and far too removed from people's lives today. That is why we are feeling this rumble out in the country. That is why people are worried about the deficits. That is why people are worried about their children's future, because the debt is going to triple over the next 10 years. We can't even come close. Interest payments next year are going to be close to $500 billion. Think about that. Just the interest on the debt is starting to approach a half a trillion dollars a year—a half a trillion dollars a year. Had we been prudent and not borrowed money, that would be a half a trillion dollars we could either give back to the American people or create tremendous abilities and opportunities in terms of solving some of the problems in front of us today. Health care, for example. The reason why we can't get a health care bill out of the HELP Committee is because nobody is satisfied with the tremendous costs that

CBO has estimated because we are spending tons of money. We don't have the money, so we are now handicapped.

This bill, S. 1319, requires that each act of Congress shall contain a concise explanation of the authority, the specific constitutional authority under which this bill would be enacted. What it does is makes Congress go to the Constitution, and particularly article I, section 8, and say, here is where I get the authority. We won't win many of those arguments, even though many of the bills will be outside of the authority granted us under the Constitution.

Thomas Jefferson thought such an exercise was vitally important—we have ignored his advice—he thought it was important for Congress to undertake in order to study what those who ratified the Constitution had in mind. In a letter in 1823, he said this:

> On every question of construction, let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.

There is no question what the context and the meaning was of our Founders when they wrote out the enumerated powers section. We have prostituted it to our own demise. The words of Benjamin Franklin ring true today: Can we keep it. If we can keep it.

S. 1319 is a little exercise in self-discipline for the Senate that maybe we ought to be explaining to the American people where we think we get the authority to trample on the 10th amendment, to tell them what to do, how to do it, and by the way, we need some money to tell you how to do that. The whole goal of the Enumerated Powers Act is to make us accountable. My whole goal in the Senate has been transparency. We ought to be transparent about how we get or where we get or from where we get the authority to grow the size of this government even further and to make it less effective.

Finally, in a recent speech, retiring Justice David Souter recently commented that the American Republic ''can be lost, it is being lost, it is lost, if it is not understood.'' He went on to cite surveys that show Americans cannot even name the three branches of government. That is why he and retired Justice Sandra Day O'Connor have both undertaken, in their retirement, efforts to restore America's civic education.

I am convinced that if Americans know what is in the Constitution, they will start holding us accountable. Part of our job ought to be to explain how we can be accountable. We have 17 Senators who think this is a good idea. That is a lot for a bill in the Senate. I encourage my colleagues to look at this bill, to become accountable and transparent with our constituencies.

I will end on one final note. When the Presiding Officer was sworn in this year, he took an oath. That oath said he would uphold the Constitution. Not once in his oath did it mention the State of Alaska from where he and the people he represents in the Senate hail, but his oath was sworn to the betterment of this country, not to the betterment of Alaska, as mine is to the betterment of the country, not to the betterment of Oklahoma. For Alaska and Oklahoma can't fare well if the country doesn't fare well. So our Founders knew that when we took this oath to uphold the Constitution, they knew our direction would be national interests and long term. We have fallen away from that. We have become parochial and we have become short term.

This bill says you can still cheat on the Constitution, but now you have to explain to the American people why you are cheating, and there will be a point of order against any bill that doesn't provide an explanation to the people.

That is one of the ways we get our country back because the American people become informed. I guarantee you many will become outraged when they hear some of the statements on why the Senate thinks we have the authority to do some of the things we do.

With that, I yield the floor.

CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, section 303 of S. Con. Res. 13, the 2010 Budget Resolution, permits the Chairman of the Senate Budget Committee to adjust the allocations of a committee or committees, the aggregates, and other appropriate levels and limits in the resolution for legislation that makes higher education more accessible and affordable, including expanding and strengthening student aid, such as Pell grants. These adjustments to S. Con. Res. 13 are contingent on the legislation not increasing the deficit over either the period of the total of fiscal years 2009 through 2014 or the period of the total of fiscal years 2009 through 2019.

I find that the amendment in the nature of a substitute to H.R. 1777, a bill to make technical corrections to the Higher Education Act of 1965, and for other purposes, fulfills the conditions of the deficit-neutral reserve fund for higher education. Therefore, pursuant to section 303, I am adjusting the aggregates in the 2010 budget resolution, as well as the allocation to the Senate Health, Education, Labor, and Pensions Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 303 DEFICIT-NEUTRAL RESERVE FUND FOR HIGHER EDUCATION

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2009	1,532.579
FY 2010	1,653.728
FY 2011	1,929.681
FY 2012	2,129.668
FY 2013	2,291.197
FY 2014	2,495.875
(1)(B) Change in Federal Revenues:	
FY 2009	0.008
FY 2010	−12.258
FY 2011	−158.950
FY 2012	−230.725
FY 2013	−224.140
FY 2014	−137.783
(2) New Budget Authority:	
FY 2009	3,675.736
FY 2010	2,892.510
FY 2011	2,844.937
FY 2012	2,848.106
FY 2013	3,012.328
FY 2014	3,188.867
(3) Budget Outlays:	
FY 2009	3,358.952
FY 2010	3,004.544
FY 2011	2,970.592
FY 2012	2,883.053
FY 2013	3,019.952
FY 2014	3,175.217

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 303 DEFICIT-NEUTRAL RESERVE FUND FOR HIGHER EDUCATION

[In millions of dollars]

Current Allocation to Senate Health, Education, Labor, and Pensions Committee:	
FY 2009 Budget Authority	−22,425
FY 2009 Outlays	−19,056
FY 2010 Budget Authority	4,497
FY 2010 Outlays	1,539
FY 2010–2014 Budget Authority	50,374
FY 2010–2014 Outlays	44,507
Adjustments:	
FY 2009 Budget Authority	−187
FY 2009 Outlays	−202
FY 2010 Budget Authority	32
FY 2010 Outlays	36
FY 2010–2014 Budget Authority	188
FY 2010–2014 Outlays	199
Revised Allocation to Senate Health, Education, Labor, and Pensions Committee:	
FY 2009 Budget Authority	−22,612
FY 2009 Outlays	−19,258
FY 2010 Budget Authority	4,529
FY 2010 Outlays	1,575
FY 2010–2014 Budget Authority	50,562
FY 2010–2014 Outlays	44,706

FURTHER CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, section 401(c)(4) of S. Con. Res. 13, the 2010

budget resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal years 2009 and 2010 for overseas deployments and other activities by the amounts provided in such legislation for those purposes and so designated pursuant to section 401(c)(4). The adjustment is limited to the total amount of budget authority specified in section 104(21) of S. Con. Res. 13. For 2009, that limitation is $90.745 billion, and for 2010, it is $130 billion.

On June 18, 2009, the Senate Appropriations Committee reported S. 1298, the Department of Homeland Security Appropriations Bill, 2010. The reported bill contains $242 million in funding that has been designated for overseas deployments and other activities pursuant to section 401(c)(4). The Congressional Budget Office estimates that the $242 million in designated funding will result in $194 million in new outlays in 2010. As a result, I am revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays by those amounts in 2010.

In addition, I am also revising part of the adjustment I made last week to the budgetary aggregates pursuant to section 401(c)(4) of S. Con. Res. 13 for the conference report to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009. Specifically, I am reducing the amount of the adjustment in budget authority and outlays by $11 million each in 2010.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) ADJUSTMENTS TO SUPPORT ONGOING OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES

[In billions of dollars]

	Section 101
(1)(A) Federal Revenues:	
FY 2009	1,532.579
FY 2010	1,653.728
FY 2011	1,929.681
FY 2012	2,129.668
FY 2013	2,291.197
FY 2014	2,495.875
(1)(B) Change in Federal Revenues:	
FY 2009	0.008
FY 2010	−12.258
FY 2011	−158.950
FY 2012	−230.725
FY 2013	−224.140
FY 2014	−137.783
(2) New Budget Authority:	
FY 2009	3,675.736
FY 2010	2,892.499
FY 2011	2,844.937
FY 2012	2,848.106
FY 2013	3,012.328
FY 2014	3,188.867
(3) Budget Outlays:	
FY 2009	3,358.952
FY 2010	3,004.533
FY 2011	2,970.592
FY 2012	2,883.053
FY 2013	3,019.952
FY 2014	3,175.217

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS

[In millions of dollars]

	Initial Allocation/Limit	Adjustment	Revised Allocation/Limit
FY 2009 Discretionary Budget Authority	1,482,201	0	1,482,201
FY 2009 Discretionary Outlays	1,247,872	0	1,247,872
FY 2010 Discretionary Budget Authority	1,086,027	242	1,086,269
FY 2010 Discretionary Outlays	1,306,065	194	1,306,259

VOTE EXPLANATION

Mr. UDALL of Colorado. Mr. President, due to unexpected travel delays, I missed a recorded vote on the Senate floor on Monday, June 22, 2009. Had I been present, I would have voted yea on rollcall vote No. 211.

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

PRISON RAPE ELIMINATION REPORT

● Mr. KENNEDY. Mr. President, I commend the members of the National Prison Rape Elimination Commission for its excellent report and recommendations. Sadly, rape and sexual abuse have often been regarded as inevitable facts of life in prisons across the country. Until now, the Federal Government had never conducted a reliable study of the issue—even though more than 2 million men and women are now behind bars nationwide. The shocking reality is that 1 in 10 of those 2 million will be victims of rape.

At greatest risk are the 100,000 juvenile inmates, the 200,000 men and women held in immigration detention centers, and the many inmates suffering from mental illness. Juvenile facilities in particular are regularly the site of shocking physical and mental abuse, and juveniles incarcerated in adult facilities are five times more likely to report being victims of sexual assault than those in juvenile facilities.

The recommendations contained in this new report identify the steps and standards needed to achieve safer conditions in our prison system. The members of the Commission deserve our gratitude for their skill and dedication in examining all aspects of this complex and serious problem, and so do all those who contributed their knowledge and expertise to the Commission's work. Their leadership is a major step toward resolving this festering crisis.

I look forward to the important work ahead by the Congress, the Attorney General, and the many dedicated professionals, advocates, and experts to implement the Commission's recommendations.●

COMMENDING SARAH ANDERSON

Mr. THUNE. Mr. President, today I rise to recognize Sarah Anderson, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several weeks.

Sarah is a graduate of Roosevelt High School in Sioux Falls, SD. Currently she is attending the Dakota State University, where she is majoring in elementary and K–12 education. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Sarah for all of the fine work she has done and wish her continued success in the years to come.

COMMENDING BRADY BEHRENS

Mr. THUNE. Mr. President, today I rise to recognize Brady Behrens, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several weeks.

Brady is a graduate of Roosevelt High School in Sioux Falls, SD. Currently he is attending the University of Nevada, Las Vegas, where he is majoring in political science. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Brady for all of the fine work he has done and wish him continued success in the years to come.

COMMENDING KATHERINE DOUGLAS

Mr. THUNE. Mr. President, today I rise to recognize Katherine Douglas, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several weeks.

Katherine is a graduate of T.F. Riggs High School in Pierre, SD. Currently she is attending the University of South Dakota, where she is majoring in political science. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Katherine

for all of the fine work she has done and wish her continued success in the years to come.

COMMENDING HALEY VELLINGA

Mr. THUNE. Mr. President, today I rise to recognize Haley Vellinga, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several weeks.

Haley is a graduate of Washington High School in Sioux Falls, SD. Currently she is attending the Biola University, where she is majoring in communication. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Haley for all of the fine work she has done and wish her continued success in the years to come.

ADDITIONAL STATEMENTS

THE NINE LOTHSPEICH BROTHERS

● Mr. DORGAN. Mr. President, there is no State in the Union that is prouder of its military heritage than North Dakota. When I began the North Dakota Veterans History Project a few years ago to record the stories of our veterans for future generations, the outpouring of interest around the State resulted in more than 1,500 interviews.

In the past, I have spoken in this Chamber about the nine North Dakota soldiers who earned Medals of Honor during a single campaign in the 1899 Philippine Insurrection, about the famed 164th Infantry Regiment of the North Dakota National Guard, about the ''Happy Hooligans'' of the North Dakota Air National Guard's 119th Fighter Wing, and about Woody Keeble who won the Medal of Honor for his heroism in Korea.

Today, I would like to tell you about some more North Dakota military heroes. On July 4 of this year, the city of Park River, ND, is going to devote part of its 125th anniversary celebration to recognizing the military service of a truly remarkable North Dakota ''band of brothers.''

In 1920, Edward Lothspeich of Langdon, ND, married Rose Dirkes of Sauk Centre, MN. They settled in Wales, ND, where Ed managed a lumber yard. In time, Ed and Rose Lothspeich became the proud parents of nine sons and one daughter.

The nine Lothspeich brothers hold a unique record in the history of the State of North Dakota. Each one of them served in U.S. Armed Forces. That is most from any single family in our State.

Let me tell you a bit about each of them.

Eugene Lothspeich, the eldest son, served in the Army from 1942 to 1945. He was a machine gunner with the 337th Infantry Regiment through three campaigns in Italy. He received the Purple Heart for wounds received in the Apennines.

Harold served in the Army from 1943 to 1946. He served in the Pacific theater and saw combat on the islands of Leyte and Luzon.

Edward served in the Navy from 1943 to 1946. He was a machinist's mate and repaired damaged ships while stationed in Hawaii and San Diego, CA.

Donald was inducted in the Army in 1950 and served for 2 years in Germany.

Gerald was drafted into the Army in 1950 and was stationed at Fort Lewis, WA, for 2 years, except for a short period when he was sent to Nevada to support nuclear weapons testing.

Lyle was inducted in the Army in 1951. He served in Hawaii, Iceland, and the U.S. Military Academy at West Point, where he was a rifle instructor.

Marlin served in the Air Force from 1951 to 1955. He served in Japan in the Air Force Medical Service Corps.

Franklin entered the Army in 1955. He served in Germany as a tank gunner.

Leon, the youngest of the nine Lothspeich brothers, served in the Army from 1954 to 1957. He was stationed in Germany where he worked with guided missiles.

From World War II, through the Korean conflict and into the early years of the Cold War, Leon, Eugene, Harold, Edward, Donald, Gerald, Lyle, Marlin, and Franklin Lothspeich served with honor and bravery. These nine men, a ''band of brothers,'' made many sacrifices for the safety and freedom of our country and the world.

Today I want to particularly honor three of the brothers who are still with us: Lyle, Marlin, and Franklin.

Our Nation is what it is today because of the soldiers, sailors, and airmen like the Lothspeich brothers who were willing to leave their homes so many years ago and travel around the world to protect our freedom. They did it without complaint and without question. They loved their country.

There is a verse that goes, ''When the night is full of knives, and the lightning is seen, and the drums are heard, the patriots are always there, ready to fight and ready to die, if necessary, for freedom.'' These brothers I have just described are true patriots.

The story of the nine Lothspeich bothers is a remarkable one. It illustrates the strength of character and hardy determination that has served America so well for so many years. The Lothspeich brothers loved their country and answered the call of duty. They stood up for America, and I am honored to salute their service today in the Senate.●

125TH ANNIVERSARY OF BERESFORD, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Beresford, SD. Founded in 1884, the town of Beresford will celebrate its 125th anniversary this year.

Located in Lincoln and Union County, Beresford possesses the strong sense of community that makes South Dakota an outstanding place to live and work. Named after Lord Charles Beresford, an admiral in the British Navy and railroad enthusiast, Beresford has continued to be a strong reflection of South Dakota's greatest values and traditions throughout its rich history. The city of Beresford has much to be proud of and I am confident that Beresford's success will continue well into the future.

The town of Beresford will commemorate the 125th anniversary of its founding with celebrations held on July 2 through July 5. I would like to offer my congratulations to the citizens of Beresford on this milestone anniversary and wish them continued prosperity in the years to come.●

125TH ANNIVERSARY OF BLUNT, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Blunt, SD. Founded in 1884, the town of Blunt will celebrate its 125th anniversary this year.

Located in the plains region of Hughes County, Blunt possesses the strong sense of community that makes South Dakota an outstanding place to live and work. Named after railroad engineer John E. Blunt, the town began as a railroad town, benefiting from the rapidly westward-expanding Chicago Northwestern Railroad. A shipping and transportation hotspot, Blunt became the home of numerous pioneers and homesteaders in the late 1800s who relocated to the Dakota Territory. Throughout its rich history, Blunt has continued to be a strong reflection of South Dakota's greatest values and traditions. The city of Blunt has much to be proud of and I am confident that Blunt's success will continue well into the future.

The town of Blunt will commemorate the 125th anniversary of its founding with celebrations held on June 27 through June 28. I would like to offer my congratulations to the citizens of Blunt on this milestone anniversary and wish them continued prosperity in the years to come.●

125TH ANNIVERSARY OF BRITTON, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Britton, SD. Founded in 1884, the town of Britton will celebrate its 125th anniversary this year.

Serving as the county seat of Marshall County, Britton possesses the strong sense of community that makes South Dakota an outstanding place to live and work. As the ''Gateway to the Glacial Lakes,'' Britton has grown from a small railroad town where the first claims were laid in 1884 into a town where businesses and families thrive. Throughout its rich history, Britton has continued to be a strong reflection of South Dakota's greatest

values and traditions. The city of Britton has much to be proud of and I am confident that Britton's success will continue well into the future.

The town of Britton will commemorate the 125th anniversary of its founding with celebrations held on July 3 through July 5. I would like to offer my congratulations to the citizens of Britton on this milestone anniversary and wish them continued prosperity in the years to come.●

125TH ANNIVERSARY OF EMERY, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Emery, SD. Founded in 1884, the town of Emery will celebrate its 125th anniversary this year.

Located in Hanson County, Emery possesses the strong sense of community that makes South Dakota an outstanding place to live and work. Throughout its rich history, Emery has continued to be a strong reflection of South Dakota's greatest values and traditions. The city of Emery has much to be proud of and I am confident that Emery's success will continue well into the future.

The town of Emery will commemorate the 125th anniversary of its founding with celebrations held on July 3 through July 5. I would like to offer my congratulations to the citizens of Emery on this milestone anniversary and wish them continued prosperity in the years to come.●

125TH ANNIVERSARY OF LEOLA, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Leola, SD. Founded in 1884, the town of Leola will celebrate its 125th anniversary this year.

Serving as the county seat of McPherson County, Leola possesses the strong sense of community that makes South Dakota an outstanding place to live and work. Named after the daughter of founder CPT E.D. Haynes, Leola began as a town for homesteaders looking for a new future in the West. Throughout, its rich history, Leola has continued to be a strong reflection of South Dakota's greatest values and traditions. The city of Leola has much to be proud of and I am confident that Leola's success will continue well into the future.

The town of Leola will commemorate the 125th anniversary of its founding with celebrations held on July 3 through July 5. I would like to offer my congratulations to the citizens of Leola on this milestone anniversary and wish them continued prosperity in the years to come.●

125TH ANNIVERSARY OF SENECA, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Seneca, SD. Founded in 1884, the town of Seneca will celebrate its 125th anniversary this year.

Located in Faulk County, Seneca possesses the strong sense of community that makes South Dakota an outstanding place to live and work. Seneca began 125 years ago as a very prosperous railroad town; and throughout its rich history, Seneca has continued to be a strong reflection of South Dakota's greatest values and traditions. The city of Seneca has much to be proud of and I am confident that Seneca's success will continue well into the future.

The town of Seneca will commemorate the 125th anniversary of its founding with celebrations held on June 26 through June 28. I would like to offer my congratulations to the citizens of Seneca on this milestone anniversary and wish them continued prosperity in the years to come.●

125TH ANNIVERSARY OF TORONTO, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Toronto, SD. Founded in 1884, the town of Toronto will celebrate its 125th anniversary this year.

Located in Deuel County, Toronto possesses the strong sense of community that makes South Dakota an outstanding place to live and work. Throughout its rich history, Toronto has continued to be a strong reflection of South Dakota's greatest values and traditions. The city of Toronto has much to be proud of and I am confident that Toronto's success will continue well into the future.

The town of Toronto will commemorate the 125th anniversary of its founding with celebrations held on July 2 through July 5. I would like to offer my congratulations to the citizens of Toronto on this milestone anniversary and wish them continued prosperity in the years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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–2069. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Thomas F. Metz, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–2070. A communication from the General Counsel, Selective Service System, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Director, Selective Service System; to the Committee on Armed Services.

EC–2071. A communication from the Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, a report entitled ''2009 Report to Congress on Sustainable Ranges''; to the Committee on Armed Services.

EC–2072. A communication from Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to United States Policy in Iraq Act, section 1227 of the National Defense Authorization Act for Fiscal Year 2006, a report relative to the current military, diplomatic, political, and economic measures that are being or have been undertaken to complete our mission in Iraq successfully; to the Committee on Armed Services.

EC–2073. A communication from the Assistant Secretary, Global Strategic Affairs, Department of Defense, transmitting, pursuant to law, a report entitled ''Cooperative Threat Reduction Annual Report to Congress Fiscal Year 2010''; to the Committee on Armed Services.

EC–2074. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report entitled ''95th Annual Report of the Board of Governors of the Federal Reserve System''; to the Committee on Banking, Housing, and Urban Affairs.

EC–2075. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report entitled ''Report to the Congress on Profitability of Credit Card Operations of Depository Institutions''; to the Committee on Banking, Housing, and Urban Affairs.

EC–2076. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Elephant Trunk Scallop Access Area to General Category Scallop Vessels'' (RIN0648-XP43) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2077. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Full-time Tier 2 Category'' (RIN0648–XP65) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2078. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Catcher Processor Rockfish Cooperatives in the Gulf of Alaska'' (RIN0648–XP57) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2079. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

''Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XP60) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2080. A communication from the Chief of the Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Improving Public Safety Communications in the 800 MHz Band, Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels'' ((WT Docket No. 02-55)(FCC09–49)) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2081. A communication from the Acting Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Jurisdictional Separations and Referral to the Federal-State Joint Board'' ((CC Docket No. 50–286)(FCC09–44)) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2082. A communication from the Acting Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Local Number Portability Porting Interval and Validation Requirements; Telephone Number Portability'' ((WC Docket No. 07–244)(FCC09–41)) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2083. A communication from the Chief of the Endangered Species Listing, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Quino Checkerspot Butterfly (Euphydryas editha quino)'' (RIN1018–AV23) received in the Office of the President of the Senate on June 17, 2009; to the Committee on Environment and Public Works.

EC–2084. A communication from the Director of Congressional Affairs, Federal & State Materials & Environmental Management, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks; Standardized NUHOMS System Revision 10'' (RIN3150–AI62) received in the Office of the President of the Senate on June 22, 2009; to the Committee on Environment and Public Works.

EC–2085. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a report entitled ''A National Assessment of Demand Response Potential''; to the Committee on Energy and Natural Resources.

EC–2086. 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 ''Home Affordable Modification Program'' (Rev. Rul. 2009–19) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Finance.

EC–2087. A communication from the Railroad Retirement Board, transmitting, pursuant to law, a report entitled ''Twenty-Fourth Actuarial Valuation of the Assets and Liabilities Under the Railroad Retirement Acts as of December 31, 2007''; to the Committee on Health, Education, Labor, and Pensions.

EC–2088. A communication from the Inspector General, General Services Administration, Department of Defense and National Aeronautics and Space Administration, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the 6-month period ending March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–2089. A communication from the Administrator of Policy Development and Research, Employment Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Temporary Employment of H-2A Aliens in the United States'' (RIN1205–AB55) received in the Office of the President of the Senate on June 18, 2009; to the Committee on the Judiciary.

EC–2090. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Suspension of the Primary Season for Pacific Whiting Fishery for the Shore Based Sector South of 42 Degree N. Lat.'' ((RIN0648–XP43)(Docket No. 090428799-9802-01)) received in the Office of the President of the Senate on June 18, 2009; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 2010'' (Rept. No. 111–32).

By Mr. KERRY, from the Committee on Foreign Relations, with amendments:

S. 962. A bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes (Rept. No. 111–33).

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. UDALL of Colorado (for himself and Mrs. GILLIBRAND):

S. 1321. A bill to amend the Internal Revenue Code of 1986 to provide a credit for property labeled under the Environmental Protection Agency Water Sense program; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 1322. A bill to provide for the Captain James A. Lovell Federal Health Care Center in Lake County, Illinois, and for other purposes; to the Committee on Armed Services.

By Mr. VITTER (for himself, Mr. INHOFE, Mr. BUNNING, Mr. BROWNBACK, and Mr. ENSIGN):

S. 1323. A bill to rescind ARRA funds rejected by State Governors and local governments and return them to the Treasury to reduce the national debt to be inherited by future generations; to the Committee on Appropriations.

By Mr. DEMINT:

S. 1324. A bill to ensure that every American has a health insurance plan that they can afford, own, and keep; to the Committee on Finance.

By Mr. SPECTER:

S. 1325. A bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the section 45 credit for refined coal from steel industry fuel, and for other purposes; to the Committee on Finance.

By Mr. BAYH (for himself, Mr. SHELBY, Ms. LANDRIEU, Mr. VITTER, Mr. DURBIN, Mr. BOND, Mr. HARKIN, Mr. JOHANNS, Mr. WICKER, Mr. LUGAR, Mr. COCHRAN, and Mr. NELSON of Nebraska):

S. 1326. A bill to amend the American Recovery and Reinvestment Tax Act of 2009 to clarify the low-income housing credits that are eligible for the low-income housing grant election, and for other purposes; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. MENENDEZ):

S. 1327. A bill to reauthorize the public and Indian housing drug elimination program of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1328. A bill to provide for the exchange of administrative jurisdiction over certain Federal land between the Forest Service and the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself, Mr. CARDIN, Mr. DURBIN, and Mr. KENNEDY):

S. 1329. A bill to authorize the Attorney General to award grants to State courts to develop and implement State courts interpreter programs; to the Committee on the Judiciary.

By Mrs. GILLIBRAND:

S. 1330. A bill to amend the Food, Conservation, and Energy Act of 2008 to increase the payment rate for certain payments under the milk income loss contract program as an emergency measure; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. GILLIBRAND:

S. 1331. A bill to amend the Food, Conservation, and Energy Act of 2008 to index for inflation the payment rate for payments under the milk income loss contract program; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. UDALL of Colorado (for himself and Mr. ISAKSON):

S. Res. 200. A resolution designating September 12, 2009, as ''National Childhood Cancer Awareness Day''; to the Committee on the Judiciary.

By Mr. HARKIN (for himself and Mr. KENNEDY):

S. Res. 201. A resolution recognizing and honoring the tenth anniversary of the United States Supreme Court decision in Olmstead v. L.C., 527 U.S. 581 (1999); considered and agreed to.

By Mr. SCHUMER (for himself, Mr. BROWNBACK, and Mrs. MURRAY):

S. Con. Res. 30. A concurrent resolution commending the Bureau of Labor Statistics on the occasion of its 125th anniversary; considered and agreed to.

ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones

from listed property under section 280F.

S. 229

At the request of Mrs. BOXER, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 229, a bill to empower women in Afghanistan, and for other purposes.

S. 254

At the request of Mrs. LINCOLN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 254, a bill to amend title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under the Medicare Program.

S. 369

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

S. 461

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

S. 482

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

S. 571

At the request of Mr. MENENDEZ, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 571, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, and study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 597

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 597, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 607

At the request of Mr. UDALL of Colorado, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Nevada (Mr. ENSIGN) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 607, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes.

S. 628

At the request of Mr. CONRAD, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 628, a bill to provide incentives to physicians to practice in rural and medically underserved communities.

S. 653

At the request of Mr. CARDIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Illinois (Mr. BURRIS), the Senator from Alaska (Mr. BEGICH) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 685

At the request of Mr. LAUTENBERG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 685, a bill to require new vessels for carrying oil fuel to have double hulls, and for other purposes.

S. 690

At the request of Mr. CARDIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 690, a bill to amend the Neotropical Migratory Bird Conservation Act to reauthorize the Act.

S. 705

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 705, a bill to reauthorize the programs of the Overseas Private Investment Corporation, and for other purposes.

S. 772

At the request of Mr. BOND, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 772, a bill to enhance benefits for survivors of certain former members of the Armed Forces with a history of post-traumatic stress disorder or traumatic brain injury, to enhance availability and access to mental health counseling for members of the Armed Forces and veterans, and for other purposes.

S. 795

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 795, a bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 797

At the request of Mr. DORGAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 797, a bill to amend the Indian Law Enforcement Reform Act, the Indian Tribal Justice Act, the Indian Tribal Justice Technical and Legal Assistance Act of 2000, and the Omnibus Crime Control and Safe Streets Act of 1968 to improve the prosecution of, and response to, crimes in Indian country, and for other purposes.

S. 812

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

S. 827

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 827, a bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds.

S. 833

At the request of Mr. SCHUMER, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. 833, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 848

At the request of Mrs. MCCASKILL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 848, a bill to recognize and clarify the authority of the States to regulate intrastate helicopter medical services, and for other purposes.

S. 879

At the request of Ms. COLLINS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 879, a bill to amend the Homeland Security Act of 2002 to provide immunity for reports of suspected terrorist activity or suspicious behavior and response.

S. 883

At the request of Mr. KERRY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 979

At the request of Mr. DURBIN, the name of the Senator from Minnesota

(Ms. KLOBUCHAR) was added as a cosponsor of S. 979, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

S. 990

At the request of Ms. STABENOW, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 990, a bill to amend the Richard B. Russell National School Lunch Act to expand access to healthy afterschool meals for school children in working families.

S. 1023

At the request of Mr. DORGAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

At the request of Mr. CORNYN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Delaware (Mr. KAUFMAN) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1156

At the request of Mr. HARKIN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1177

At the request of Mr. KOHL, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1177, a bill to improve consumer protections for purchasers of long-term care insurance, and for other purposes.

S. 1181

At the request of Mr. WYDEN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1181, a bill to provide for a demonstration project to examine whether community-level public health interventions can result in lower rates of chronic disease for individuals entering the Medicare program.

S. 1214

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1214, a bill to conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, and for other purposes.

S. 1221

At the request of Mr. SPECTER, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1221, a bill to amend title XVIII of the Social Security Act to ensure more appropriate payment amounts for drugs and biologicals under part B of the Medicare Program by excluding customary prompt pay discounts extended to wholesalers from the manufacturer's average sales price.

S. 1233

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1233, a bill to reauthorize and improve the SBIR and STTR programs and for other purposes.

S. 1261

At the request of Mr. AKAKA, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1261, a bill to repeal title II of the REAL ID Act of 2005 and amend title II of the Homeland Security Act of 2002 to better protect the security, confidentiality, and integrity of personally identifiable information collected by States when issuing driver's licenses and identification documents, and for other purposes.

S. 1265

At the request of Mr. CORNYN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1265, a bill to amend the National Voter Registration Act of 1993 to provide members of the Armed Forces and their family members equal access to voter registration assistance, and for other purposes.

S. 1267

At the request of Mr. MENENDEZ, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1267, a bill to amend title V of the Social Security Act to provide grants to establish or expand quality programs providing home visitation for low-income pregnant women and low-income families with young children, and for other purposes.

S. 1278

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1278, a bill to establish the Consumers Choice Health Plan, a public health insurance plan that provides an affordable and accountable health insurance option for consumers.

S. 1279

At the request of Mr. NELSON of Nebraska, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1279, a bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to extend the Rural Community Hospital Demonstration Program.

S. 1304

At the request of Mr. GRASSLEY, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S.J. RES. 17

At the request of Mrs. FEINSTEIN, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from New York (Mr. SCHUMER), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

At the request of Mr. MCCONNELL, the names of the Senator from New Hampshire (Mr. GREGG) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S.J. Res. 17, supra.

S. CON. RES. 25

At the request of Mr. MENENDEZ, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Ohio (Mr. BROWN) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. Con. Res. 25, a concurrent resolution recognizing the value and benefits that community health centers provide as health care homes for over 18,000,000 individuals, and the importance of enabling health centers and other safety net providers to continue to offer accessible, affordable, and continuous care to their current patients and to every American who lacks access to preventive and primary care services.

S. CON. RES. 28

At the request of Mr. NELSON of Nebraska, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Con. Res. 28, a concurrent resolution supporting the goals of Smart Irrigation Month, which recognizes the advances in irrigation technology and practices that help raise healthy plants and increase crop yields while using water resources more efficiently and encourages the adoption of smart irrigation practices throughout the United States to further improve water-use efficiency in agricultural, residential, and commercial activities.

S. RES. 161

At the request of Mr. JOHNSON, the names of the Senator from Utah (Mr.

BENNETT), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Virginia (Mr. WARNER), the Senator from Massachusetts (Mr. KERRY) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 161, a resolution recognizing June 2009 as the first National Hereditary Hemorrhagic Telangiecstasia (HHT) month, established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States.

S. RES. 199

At the request of Mr. KOHL, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. Res. 199, a resolution recognizing the contributions of the recreational boating community and the boating industry to the continuing prosperity of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. UDALL of Colorado (for himself and Mrs. GILLIBRAND):

S. 1321. A bill to amend the Internal Revenue Code of 1986 to provide a credit for property labeled under the Environmental Protection Agency Water Sense program; to the Committee on Finance.

Mr. UDALL of Colorado. Mr. President, there is an old saying that ''you don't know what you've got until it's gone.'' It is true, especially when you are talking about water. We have a tendency to take water for granted when we turn on our faucets or showers and when we want to water our yards. We tend to use it inefficiently. We let the faucet run when we are brushing our teeth, or we water our lawns in the middle of the day when evaporation rates are at their highest.

When you grow up in the desert, as I did, you learn to treasure water. Everything in the West is shaped by it, and you know that it might not always be there when you need it. This will become—particularly in my part of the country, but also in the Presiding Officer's State as well—more apparent as we see lower snowpack and decreasing precipitation in the Southwest. Because of climate change dynamics and drought cycles, we are already experiencing those situations.

Water is the lifeblood of the West. Recent droughts in the Southeast of our country remind us that no one is immune from water shortages. It is with an eye to those experiences that I rise today to introduce legislation that would take a measured and practical step toward conserving it.

The Water Accountability Tax Efficiency Reinvestment Act of 2009—that is a mouthful, but if you boil it down to its acronym, it is the WATER Act—creates a tax incentive for individuals and businesses to purchase products and services that use water at least 20 percent more efficiently than comparable technology.

It is very similar to the existing tax credit we receive now for purchasing energy-efficient Energy Star products. Certainly, you see Energy Star products all over homes, and increasingly customers are purchasing them.

I thank my friend and colleague in the House of Representatives, Congressman MIKE COFFMAN, for introducing this measure in the House. I am pleased to work with him in a bipartisan way, as he is a Republican, and in a bicameral way.

I urge my colleagues to join us in supporting this bill. Why? The more we can conserve today, the more we can decrease the demands on existing water resources. Better yet, we can save our constituents and ourselves literally hundreds of dollars in the process.

What would the WATER Act do? It would create a 30-percent tax credit on the purchase of products that have earned the EPA's WaterSense label, with a maximum lifetime cap of $1,500. That is a handsome incentive for us as consumers.

Like the Energy Star label awarded by the EPA and Department of Energy, the WaterSense label would be reserved for those products that consume at least 20 percent less water than comparable items. These products are becoming much more common. They include many brands of faucets, toilets, shower heads, even irrigation services.

The predictions are that soon entire homes would become WaterSense certified.

Not only is it a bonus for the environment when we conserve water, but it is helpful to our wallets. The cheapest gallon of water, frankly, like the cheapest barrel of oil, is the one we don't use.

It is estimated by the EPA that with some simple adjustments in the way we use water, the average household can save close to $200 a year on their water and sewer bills.

There is an interesting nexus as well between energy and water use. If we conserve energy water, we use less energy. Less water means less energy to heat the water in our showers, our sinks, our dishwashers, and the energy that is used to supply and treat public water. EPA estimates if 1 percent of American households used WaterSense-certified toilets, each year we could save enough electricity to power 43,000 homes for a month, lower water bills, and reduce demands on the environment. That is something we ought to be striving to accomplish.

Numerous groups already support this legislation as it is written. I focus in particular on my home State of Colorado where industry groups, water authorities, and local leaders in Colorado have signed on to this concept.

I wanted to also say that moving forward on this legislation gained added importance for me last month when I attended a briefing that the University Corporation for Atmospheric Research held. This particular briefing was focused on the ways we will have to adapt our management of water resources in response to the effects of climate change. I know the Presiding Officer and I share a real concern about climate change.

I used to think any discussion of adapting to climate change was misguided because we were giving in to the problem. We were saying we are going to let climate change occur. I have come to believe adapting to climate change is a recognition of reality. It is having impacts all across our country. If we do not act now, we will not be meeting our responsibilities to not only our constituents today but our children and their children in the future.

In my State, all you have to do is look, for example, at the Colorado River. Colorado, Wyoming, Utah, Arizona, New Mexico, California, Nevada, and the country of Mexico have an agreement that was reached about 80 years ago on how to divide up the Colorado River. When that agreement was reached, I believe, in 1922, we thought there were 16.5 million acre feet of water we could divide among all those States and communities. We now believe that time period, when we took those numbers interest account, was a particularly wet period in the history of the Colorado River Basin. Our best guess now is there is only about 14.5 million acre feet available, and 16.5 million versus 14.5 million—there is a 2-million-acre-foot deficit there, and it is causing increasing concern.

So these water shortages that are possible because of climate change, combined with drought cycles that are normal, have the potential to cause great political tension and controversy. The river levels in the Colorado basin most likely are going to get lower, and that means serious impacts for businesses, homes, and farmers in seven States and two counties. The longer we wait to take practical steps to adjust the steps of climate change, the harder it will become to deal with them.

The good news is we have options that will do more than help address global climate change. These are policies we ought to be adopting anyway. They simply have added significance now, and they make perfect common sense.

To return to the Water Act, which I came to the Senate floor to discuss, this is a prime example of how we can adapt and take some steps today that benefit all of us. If consumers in the Colorado River Basin install WaterSense products, they will decrease the demand on the overallocated Colorado River Basin, reduce their water and energy bills, and help head off an impending problem as a result of climate change. This is a win-win-win across the board.

Again, I come to the Senate floor to ask my colleagues to join me in supporting what is a commonsense, bipartisan, bicameral effort to save taxpayers money and take a big practical step toward greater water conservation.

As I close, I also add once again that we would be leading the world as it develops and the demand for water around the world increases. These products would be available in the marketplaces in China, India, Brazil, and the developing world, which would help our economy and help create jobs as well, which we are focused on singularly as Senators. I know that is important in the Presiding Officer's home State as well.

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

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

S. 1321

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 ''Water Accountability Tax Efficiency Reinvestment Act of 2009'' or as the ''WATER Act of 2009''.

SEC. 2. CREDIT FOR WATERSENSE LABELED PROPERTY.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 30E. WATERSENSE LABELED PROPERTY.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the amounts paid or incurred by the taxpayer during such taxable year for certified WaterSense labeled property.

''(b) LIFETIME LIMITATION.—The aggregate amount of the credits allowed under this section with respect to any taxpayer for any taxable year shall not exceed the excess (if any) of $1,500 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years.

''(c) CERTIFIED WATERSENSE LABELED PROPERTY.—For purposes of this section, the term 'certified WaterSense labeled property' means any property—

''(1) which is certified by a licensed independent third party as meeting specifications of the Environmental Protection Agency WaterSense program, and

''(2) the original use of which commences with the taxpayer.

''(d) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23, 25D, 30, and 30D) and section 27 for the taxable year.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, shall be treated as a one person.

''(2) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (d)).

''(3) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter with respect to any property for which credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

''(f) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(B) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''30E,'' after ''30D,''.

(C) Section 25B(g)(2) of such Code is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(D) Section 26(a)(1) of such Code is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(E) Section 904(i) of such Code is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(F) Section 1400C(d)(2) of such Code is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30E(e)(2).''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 30E. WaterSense labeled property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 1322. A bill to provide for the Captain James A. Lovell Federal Health Care Center in Lake County, Illinois, and for other purposes; to the Committee on Armed Services.

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

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

S. 1322

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 ''Captain James A. Lovell Federal Health Care Center Act of 2009''.

SEC. 2. EXECUTIVE AGREEMENT.

(a) EXECUTIVE AGREEMENT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of the Navy, and the Secretary of Veterans Affairs shall execute a signed executive agreement for the joint use by the Department of Defense and the Department of Veterans Affairs of the following:

(1) A new Navy ambulatory care center (on which construction commenced in July 2008), parking structure, and supporting structures and facilities in North Chicago, Illinois, and Great Lakes, Illinois.

(2) Medical personal property and equipment relating to the center, structures, and facilities described in paragraph (1).

(b) SCOPE.—The agreement required by subsection (a) shall—

(1) be a binding operational agreement on matters under the areas specified in section 706 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4500); and

(2) contain additional terms and conditions as required by the provisions of this Act.

SEC. 3. TRANSFER OF PROPERTY.

(a) TRANSFER.—

(1) TRANSFER AUTHORIZED.—The Secretary of Defense, acting through the Administrator of General Services, may transfer, without reimbursement, to the Secretary of Veterans Affairs jurisdiction over the center, structures, facilities, and property and equipment covered by the executive agreement under section 2.

(2) DATE OF TRANSFER.—The transfer authorized by paragraph (1) may not occur before the earlier of—

(A) the date that is five years after the date of the execution under section 2 of the executive agreement required by that section; or

(B) the date of the completion of such specific benchmarks relating to the joint use by the Department of Defense and the Department of Veterans Affairs of the Navy ambulatory care center described in section 2(a)(1) as the Secretary of Defense (in consultation with the Secretary of the Navy) and Secretary of the Department of Veterans Affairs shall jointly establish for purposes of this section not later than 180 days after the date of the enactment of this Act.

(3) DELAY OF TRANSFER FOR COMPLETION OF CONSTRUCTION.—If construction on the center, structures, and facilities described in paragraph (1) is not complete as of the date specified in subparagraph (A) or (B) of that paragraph, as applicable, the transfer of the center, structures, and facilities under that paragraph may occur thereafter upon completion of the construction.

(4) DISCHARGE OF TRANSFER.—The Administrator of General Services shall effectualize and memorialize the transfer as authorized by this subsection not later than 30 days after receipt of the request for the transfer.

(5) DESIGNATION OF FACILITY.—The center, structures, facilities transferred under this subsection shall be designated and known after transfer under this subsection as the ''Captain James A. Lovell Federal Health Care Center''.

(b) REVERSION.—

(1) IN GENERAL.—If any of the real and related personal property transferred pursuant to subsection (a) is subsequently used for purposes other than those specified in the executive agreement required by section 2, or is otherwise jointly determined by the Secretary of Defense and the Secretary of Veterans Affairs to be excess to the needs of the Captain James A. Lovell Federal Health Care Center, the Secretary of Veterans Affairs shall offer to transfer jurisdiction over such property, without reimbursement, to the Secretary of Defense. Any such transfer shall be carried out by the Administrator of General Services not later than one year after the acceptance of the offer of such transfer, plus such additional time as the Administrator may require to effectuate and memorialize such transfer.

(2) REVERSION IN EVENT OF LACK OF FACILITIES INTEGRATION.—

(A) WITHIN INITIAL PERIOD.—During the five-year period beginning on the date of the transfer of real and related personal property pursuant to subsection (a), if the Secretary of Veterans Affairs, the Secretary of Defense, and the Secretary of Navy jointly determine that the integration of the facilities transferred pursuant to that subsection should not continue, jurisdiction over such real and related personal property shall be transferred, without reimbursement, to the Secretary of Defense. The transfer under this subparagraph shall be carried out by the Administrator of General Services not later than 180 days after the date of the determination by the Secretaries, plus such additional time as the Administrator may require to effectuate and memorialize such transfer.

(B) AFTER INITIAL PERIOD.—After the end of the five-year period described in subparagraph (A), if the Secretary of Veterans Affairs or the Secretary of Defense determines that the integration of the facilities transferred pursuant to subsection (a) should not continue, the Secretary of Veterans Affairs shall transfer, without reimbursement, to the Secretary of Defense jurisdiction over the real and related personal property described in subparagraph (A). Any transfer under this subparagraph shall be carried out by the Administrator of General Services not later than one year after the date of the determination by the applicable Secretary, plus such additional time as the Administrator may require to effectuate and memorialize such transfer.

(C) REVERSION PROCEDURES.—The executive agreement required by section 2 shall provide the following:

(i) Specific procedures for the reversion of real and related personal property, as appropriate, transferred pursuant to subsection (a) to ensure the continuing accomplishment by the Department of Defense and the Department of Veterans Affairs of their missions in the event that the integration of facilities described transferred pursuant to that subsection (a) is not completed or a reversion of property occurs under subparagraph (A) or (B).

(ii) In the event of a reversion under this paragraph, the transfer from the Department of Veterans Affairs to the Department of Defense of associated functions including appropriate resources, civilian positions, and personnel, in a manner that will not result in adverse impact to the missions of Department of Defense or the Department of Veterans Affairs.

SEC. 4. TRANSFER OF CIVILIAN PERSONNEL OF THE DEPARTMENT OF DEFENSE.

(a) TRANSFER OF FUNCTIONS.—The Secretary of Defense and the Secretary of the Navy may transfer to the Secretary of Veterans Affairs functions necessary for the effective operation of the Captain James A. Lovell Federal Health Care Center. The Secretary of Veterans Affairs may accept any functions so transferred.

(b) TERMS.—

(1) EXECUTIVE AGREEMENT.—Any transfer of functions under subsection (a) shall be carried out as provided in the executive agreement required by section 2. The functions to be so transferred shall be identified utilizing the provisions of section 3503 of title 5, United States Code.

(2) ELEMENTS.—In providing for the transfer of functions under subsection (a), the executive agreement required by section 2 shall provide for the following:

(A) The transfer of civilian employee positions of the Department of Defense identified in the executive agreement to the Department of Veterans Affairs, and of the incumbent civilian employees in such positions, and the transition of the employees so transferred to the pay, benefits, and personnel systems that apply to employees of the Department of Veterans Affairs (to the extent that different systems apply).

(B) The transition of employees so transferred to the pay systems of the Department of Veterans Affairs in a manner which will not result in any reduction in an employee's regular rate of compensation (including basic pay, locality pay, any physician comparability allowance, and any other fixed and recurring pay supplement) at the time of transition.

(C) The continuation after transfer of the same employment status for employees so transferred who have already successfully completed or are in the process of completing a one-year probationary period under title 5, United States Code, notwithstanding the provisions of section 7403(b)(1) of title 38, United States Code.

(D) The extension of collective bargaining rights under title 5, United States Code, to employees so transferred in positions listed in subsection 7421(b) of title 38, United States Code, notwithstanding the provisions of section 7422 of title 38, United States Code, for a two-year period beginning on the effective date of the executive agreement.

(E) At the end of the two-year period beginning on the effective date of the executive agreement, for the following actions by the Secretary of Veterans Affairs with respect to the extension of collective bargaining rights under subparagraph (D):

(i) Consideration of the impact of the extension of such rights.

(ii) Consultation with exclusive employee representatives of the transferred employees about such impact.

(iii) Determination, after consultation with the Secretary of Defense and the Secretary of the Navy, whether the extension of such rights should be terminated, modified, or kept in effect.

(iv) Submittal to Congress of a notice regarding the determination made under clause (iii).

(F) The recognition after transfer of each transferred physician's and dentist's total number of years of service as a physician or dentist in the Department of Defense for purposes of calculating such employee's rate of base pay, notwithstanding the provisions of section 7431(b)(3) of title 38, United States Code.

(G) The preservation of the seniority of the employees so transferred for all pay purposes.

(c) RETENTION OF DEPARTMENT OF DEFENSE EMPLOYMENT AUTHORITY.—Notwithstanding subsections (a) and (b), the Department of Defense may employ civilian personnel at the Captain James Lovell Federal Health Care Center if the Secretary of the Navy, or a designee of the Secretary, determines it is necessary and appropriate to meet mission requirements of the Department of the Navy.

SEC. 5. JOINT FUNDING AUTHORITY FOR THE CAPTAIN JAMES A. LOVELL FEDERAL HEALTH CARE CENTER.

(a) IN GENERAL.—The Department of Veterans Affairs/Department of Defense Health Care Resources Sharing Committee under section 8111(b) of title 38, United States Code, may provide for the joint funding of the Captain James A. Lovell Federal Health Care Center in accordance with the provisions of this section.

(b) HEALTH CARE CENTER FUND.—

(1) ESTABLISHMENT.—There is established on the books of the Treasury under the Department of Veterans Affairs a fund to be known as the ''Captain James A. Lovell Federal Health Care Center Fund'' (in this section referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) Amounts transferred to the Fund by the Secretary of Defense, in consultation with the Secretary of the Navy, from amounts authorized to be appropriated for the Department of Defense.

(B) Amounts transferred to the Fund by the Secretary of Veterans Affairs from amounts authorized to be appropriated for the Department of Veterans Affairs.

(C) Amounts transferred to the Fund from medical care collections under paragraph (4).

(3) DETERMINATION OF AMOUNTS TRANSFERRED GENERALLY.—The amount transferred to the Fund by each of the Secretary of Defense and the Secretary of Veterans Affairs under subparagraphs (A) and (B), as applicable, of paragraph (2) each fiscal year shall be such amount, as determined by a methodology jointly established by the Secretary of Defense and the Secretary of Veterans Affairs for purposes of this subsection, that reflects the mission-specific activities, workload, and costs of provision of health care at the Captain James A. Lovell Federal Health Care Center of the Department of Defense and the Department of Veterans Affairs, respectively.

(4) TRANSFERS FROM MEDICAL CARE COLLECTIONS.—

(A) IN GENERAL.—Amounts collected under the authorities specified in subparagraph (B) for health care provided at the Captain James A. Lovell Federal Health Care Center may be transferred to the Fund under paragraph (2)(C).

(B) AUTHORITIES.—The authorities specified in this subparagraph are the following:

(i) Section 1095 of title 10, United States Code.

(ii) Section 1729 of title 38, United States Code.

(iii) Public Law 87–693, popularly known as the ''Federal Medical Care Recovery Act'' (42 U.S.C. 2651 et seq.).

(5) ADMINISTRATION.—The Fund shall be administered in accordance with such provisions of the executive agreement required by section 2 as the Secretary of Defense and the Secretary of Veterans Affairs shall jointly include in the executive agreement. Such provisions shall provide for an independent review of the methodology established under paragraph (3).

(c) AVAILABILITY.—

(1) IN GENERAL.—Funds transferred to the Fund under subsection (b) shall be available to fund the operations of the Captain James A. Lovell Federal Health Care Center, including capital equipment, real property maintenance, and minor construction projects that are not required to be specifically authorized by law under section 2805 of title 10, United States Code, or section 8104 of title 38, United States Code.

(2) LIMITATION.—The availability of funds transferred to the Fund under subsection

(b)(2)(C) shall be subject to the provisions of section 1729A of title 38, United States Code.

(3) PERIOD OF AVAILABILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds transferred to the Fund under subsection (b) shall be available under paragraph (1) for one fiscal year after transfer.

(B) EXCEPTION.—Of an amount transferred to the Fund under subsection (b), an amount not to exceed two percent of such amount shall be available under paragraph (1) for two fiscal years after transfer.

(d) FINANCIAL RECONCILIATION.—The executive agreement required by section 2 shall provide for the development and implementation of an integrated financial reconciliation process that meets the fiscal reconciliation requirements of the Department of Defense, the Department of the Navy, and the Department of Veterans Affairs. The process shall permit each of the Department of Defense, the Department of Navy, and the Department of Veterans Affairs to identify their fiscal contributions to the Fund, taking into consideration accounting, workload, and financial management differences.

(e) ANNUAL REPORT.—The Secretary of Defense, in consultation with the Secretary of the Navy, and the Secretary of Veterans Affairs shall jointly provide for an annual independent review of the Fund for at least three years after the date of the enactment of this Act. Such review shall include detailed statements of the uses of amounts of the Fund and an evaluation of the adequacy of the proportional share contributed to the Fund by each of the Secretary of Defense and the Secretary of Veterans Affairs.

(f) TERMINATION.—The authorities in this section shall terminate on September 30, 2015.

SEC. 6. ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES FOR CARE AND SERVICES AT THE CAPTAIN JAMES A. LOVELL FEDERAL HEALTH CARE CENTER.

(a) IN GENERAL.—For purposes of eligibility for health care under chapter 55 of title 10, United States Code, the Captain James A. Lovell Federal Health Care Center may be treated as a facility of the uniformed services to the extent provided under subsection (b) in the executive agreement required by section 2.

(b) ADDITIONAL ELEMENTS.—The executive agreement required by section 2 may include provisions as follows:

(1) To establish an integrated priority list for access to health care at the Captain James A. Lovell Federal Health Care Center, which list shall—

(A) integrate the respective health care priority lists of the Secretary of Defense and the Secretary of Veterans Affairs; and

(B) take into account categories of beneficiaries, enrollment program status, and such other matters as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate.

(2) To incorporate any resource-related limitations for access to health care at the Captain James A. Lovell Federal Health Care Center that the Secretary of Defense may establish for purposes of administering space-available eligibility for care in facilities of the uniformed services under chapter 55 of title 10, United States Code.

(3) To allocate financial responsibility for care provided at the Captain James A. Lovell Federal Health Care Center for individuals who are eligible for care under both chapter 55 of title 10, United States Code, and title 38, United States Code.

(4) To waive the applicability to the Captain James A. Lovell Federal Health Care Center of any provision of section 8111(e) of title 38, United States Code, that the Secretary of Defense and the Secretary of Veterans Affairs shall jointly specify.

SEC. 7. EXTENSION OF DOD–VA HEALTH CARE SHARING INCENTIVE FUND.

Section 8111(d)(3) of title 38, United States Code, is amended by striking ''September 30, 2010'' and inserting ''September 30, 2015''.

By Mr. SPECTER:

S. 1325. A bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the section 45 credit for refined coal from steel industry fuel, and for other purposes; to the Committee on Finance.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation to make permanent a tax credit for the production of Steel Industry Fuel, SIF. SIF is used by the domestic steel industry as a feedstock for the manufacture of coke, which is coal that has been carbonized and is used as a fuel in steel making.

Last fall, Congress enacted a new tax credit under the refined coal provision of section 45 of the Internal Revenue Code for the production of this fuel product made from coal waste sludge and coal. This tax credit supports SIF projects that may not otherwise be viable due to materials, process, technology and other transaction costs. As originally enacted, the SIF credit provides for a one-year credit period.

There are numerous reasons that favor extending the tax incentives for SIF: it has significant energy, environmental, and economic benefits. First, SIF recaptures the BTU content of coal waste sludge; second, its production is the preferred method of coal waste sludge disposal and is done so in a manner approved by the Environmental Protection Agency, EPA; and third, it provides the economic and financial benefits of making our domestic steel industry more competitive by lowering production and operational costs.

The production of SIF is the most favorable method of disposing of coal waste sludge from an energy resource and environmental perspective. The disposal of coal waste sludge would otherwise be treated as a hazardous waste under applicable Federal environmental rules. The alternative methods of disposal are to transport the coal waste sludge off-site for incineration or to foreign countries for landfilling. Both options require the physical conveyance of a waste product, which is a dangerous, cumbersome, and expensive undertaking. The more obvious drawback is the failure to recapture the energy content of the coal waste sludge.

An extension of the SIF tax incentive is of critical importance in the current economic downturn, and its sunset would have a negative impact on the industry. Steel companies and coke plant operators are incurring losses as the demand for their product has dried up. There have been significant layoffs at the major domestic integrated steel producers, impacting thousands of workers in Pennsylvania, Illinois, Indiana, Michigan, Ohio, West Virginia, Kentucky, and elsewhere. Domestic steel manufacturers have been forced to operate at low capacity utilization rates and coke batteries have been placed on ''hot idle,'' a holding pattern to prevent the bricks that comprise the coke battery from cooling and damaging the battery. An extension of the SIF credit will enable these manufacturers to mitigate their losses while the economy recovers.

The current 1-year period for the SIF credit has been a significant hindrance in attracting the outside investment needed to finance SIF projects, especially in light of the prevailing economic conditions since the enactment of the credit. Steel industry fuel projects often involve lengthy negotiations to implement the transaction structure necessary to claim the SIF credit, which has effectively reduced the 1-year credit period to a lesser period for many projects. For this reason, the subsidy intended to be provided by the credit for the development of SIF projects requires a longer credit period.

Included in this legislation is an important clarification on an issue that has slowed negotiations with respect to SIF projects. It is expected that, for the convenience of the parties and for environmental safety, facilities producing SIF will typically be located on land leased from a steel company or other owner of a coking operation. Such a lessor will not be treated as having an ownership interest in the SIF facility because it leases land and related facilities, sells coal waste sludge or coal feedstock, and/or buys SIF so long as such person's entitlement to rent and/or other net payments is measured by a fixed dollar amount or a fixed dollar amount per ton, or otherwise determined without reference to the profit or loss of the facility. Similarly, a licensor of technology will not be treated as having an ownership interest in the SIF facility because it is entitled to a royalty and/or other payment that is a fixed amount per ton or otherwise determined without regard to the profit or loss of the facility. Such arrangements may also cause facilities that produce SIF to operate at a loss before the credit is taken into account; however, it is intended that the occurrence of such a ''pre-tax loss'' will not affect entitlement to this credit, regardless of whether such ''pre-tax loss'' is caused by the terms of the lease, license, supply or sales contracts between the parties. To that end, the bill provides necessary flexibility for varying circumstances of ownership interests and clarifies that the existence of such arrangements will not prevent the equity owner of a facility from receiving tax credits for its sales of SIF. This provision provides greater tax certainty to potential investors in SIF projects.

SIF is typically produced at facilities that are located on the premises of coke plants that are owned by integrated steel companies that are unrelated to the producer of such SIF. The

SIF production facility is situated on or near conveyor belts that may be leased from the integrated steel company and production of SIF may occur while coal, and coal blended with petroleum coke, as described below, is transported on the conveyor belts. For commercial, liability, safety, environmental and other business reasons germane to the integrated steel companies that consume the SIF, SIF producers may purchase coal from the integrated steel producer, taking title and having risk of loss while such coal is transported on the conveyor belt, rather than directly purchasing the coal from the mine. The bill provides a safe harbor that establishes that the SIF producer shall be treated as the producer and seller of SIF that it manufactures from coal to which it has taken title. The bill further clarifies that the sale of SIF shall not fail to qualify as a sale to an unrelated party for purposes of the SIF credit solely because the sale is to a party that is also a ground lessor, supplier, and/or customer.

The bill also establishes that SIF may also be made using coal or coal that is mixed with some petroleum coke. Such ''pet coke'' has traditionally been used by steel companies/coke operators in a blend with coal as a feedstock for coke. The bill provides that its presence in SIF does not invalidate or otherwise reduce the credit.

SIF projects will expand our domestic energy resources by using what would otherwise be a hazardous waste of the coking process in a fuel product. The availability of the tax credit will attract outside investment to the steel and coke production industries and promote job growth in the domestic steel production industry and in related industries that service the steel and coke production industries. I urge my colleagues to support this legislation.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1328. A bill to provide for the exchange of administrative jurisdiction over certain Federal land between the Forest Service and the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senator BOXER to introduce legislation to improve the administration of Chappie-Shasta Off-Highway Vehicle area by reducing unnecessary bureaucracy and aiding in proper enjoyment of these Federal lands.

This bill is simple. It interchanges the administrative jurisdiction of certain Federal lands between the Forest Service and the Bureau of Land Management in Shasta-Trinity National Forest in California.

This legislation consolidates BLM's jurisdiction and management of the Off-Highway-Vehicle area while, in exchange, the Forest Service benefits by receiving small tracts of wilderness areas that are currently managed by the BLM but are contiguous to Forest Service land.

This exchange only affects land already controlled by the Federal government and will not change the designation of these lands. Furthermore, it will be beneficial to the local community which has supported this jurisdictional change.

These Federal lands, near Redding, California, have long been used by off-highway-vehicle enthusiasts. However, overlapped management of these areas by both the Forest Service and the Bureau of Land Management has caused unnecessary burden to these recreational opportunities.

It means users need two permits, often at substantial and unnecessary cost. Likewise, the overlapping management has resulted in different opening dates for the same area of land, frustrating the local off-highway-vehicle community and the thousands of tourists who travel there every year.

This jurisdictional exchange will reduce bureaucracy to ease recreational access as well as provide for better Federal management of these areas.

The bill was developed in a collaborative manner, with input and agreement at the local level by the Forest Service and BLM, in conjunction with the local off-highway-vehicle community. The bill is also supported by the local community and the County Board of Supervisors.

This effort represents a sensible, common sense approach to problem solving and better government.

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

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

S. 1328

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 ''Shasta-Trinity National Forest Administrative Jurisdiction Transfer Act''.

SEC. 2. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE BUREAU OF LAND MANAGEMENT.

(a) IN GENERAL.—Administrative jurisdiction over the Federal land described in subsection (b) is transferred from the Chief of the Forest Service (referred to in this Act as the ''Chief'') to the Director of the Bureau of Land Management (referred to in this Act as the ''Director''), to be administered by the Director, subject to the laws (including regulations) applicable to land administered by the Director.

(b) DESCRIPTION OF LAND.—

(1) IN GENERAL.—The Federal land referred to in subsection (a) is the land within the Shasta-Trinity National Forest in California, Mount Diablo Meridian, as depicted on the map entitled ''H.R. 689, Transfer from Forest Service to BLM, Map 1'' and dated April 21, 2009.

(2) EXCLUSION.—The land within the Shasta Dam Reclamation Zone shall—

(A) be excluded from the transfer of administrative jurisdiction under subsection (a); and

(B) continue to be administered by the Secretary of the Interior (acting through the Commissioner of Reclamation).

SEC. 3. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE FOREST SERVICE.

(a) IN GENERAL.—Administrative jurisdiction over the Federal land described in subsection (b) is transferred from the Director to the Chief, to be administered by the Chief, subject to the laws (including regulations) applicable to National Forest System land.

(b) DESCRIPTION OF LAND.—The Federal land referred to in subsection (a) is the land administered by the Director in the Mount Diablo Meridian, California, as depicted on the map entitled ''H.R. 689, Transfer from BLM to Forest Service, Map 2'' and dated April 21, 2009.

(c) WITHDRAWAL.—The Federal land described in subsection (b) is—

(1) withdrawn from the public domain; and

(2) reserved for administration as part of the Shasta-Trinity National Forest.

(d) WILDERNESS ADMINISTRATION.—The transfer of administrative jurisdiction from the Director to the Chief of certain land previously designated as part of the Trinity Alps Wilderness shall not affect the wilderness status of the wilderness land.

(e) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Shasta-Trinity National Forest, as adjusted under this section, shall be considered to be the boundaries of the Shasta-Trinity National Forest as of January 1, 1965.

SEC. 4. ADMINISTRATIVE PROVISIONS.

(a) CORRECTIONS.—

(1) MINOR ADJUSTMENTS.—The Director and the Chief, may, by mutual agreement, make minor corrections and adjustments to the transfers under this Act to facilitate land management, including corrections and adjustments to any applicable surveys.

(2) PUBLICATIONS.—Any corrections or adjustments made under subsection (a) shall be effective on the date of publication of a notice of the corrections or adjustments in the Federal Register.

(b) HAZARDOUS SUBSTANCES.—

(1) NOTICE.—The Chief and Director shall, with respect to the land described in sections 2(b) and 3(b), respectively—

(A) identify any known sites containing hazardous substances; and

(B) provide to the head of the Federal agency to which the land is being transferred notice of any sites identified under subparagraph (A).

(2) CLEANUP OBLIGATIONS.—The cleanup of hazardous substances on land to which administrative jurisdiction is transferred by this Act shall be the responsibility of the head of the agency with jurisdiction over the affected land on the day before the date of enactment of this Act.

(c) EFFECT ON EXISTING RIGHTS AND AUTHORIZATIONS.—Nothing in this Act affects—

(1) any valid existing rights; or

(2) the validity or term and conditions of any existing withdrawal, right-of-way, easement, lease, license, or permit on the land to which administrative jurisdiction is transferred under this Act, except that beginning on the date of enactment of this Act, the head of the agency to which administrative jurisdiction over the land is transferred shall be responsible for administering the interests or authorizations (including reissuing the interests or authorizations in accordance with applicable law).

By Mr. KOHL (for himself, Mr. CARDIN, Mr. DURBIN, and Mr. KENNEDY):

S. 1329. A bill to authorize the Attorney General to award grants to State

courts to develop and implement state courts interpreter programs; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today, with Senator KENNEDY, Senator DURBIN, and Senator CARDIN to introduce the state Court Interpreter Grant Program Act of 2009. This legislation would create a modest grant program to provide much needed financial assistance to States for developing and implementing effective state court interpreter programs. This would help to ensure fair trials for individuals with limited English proficiency.

States are already legally required, under Title VI of the Civil Rights Act of 1964, to take reasonable steps to provide meaningful access to court proceedings for individuals with limited English proficiency. Unfortunately, however, court interpreting services vary greatly by State. Some States have highly developed programs. Others are trying to get programs up and running, but lack adequate funds. Still others have no interpreter certification program at all. It is critical that we protect the constitutional right to a fair trial by adequately funding state court interpreter programs.

Our States are finding themselves in an impossible position. Qualified interpreters are in short supply because it is difficult to find individuals who are both bilingual and well-versed in legal terminology. The skills required of a court interpreter differ significantly from those required of other interpreters or translators. Legal English is a highly particularized area of the language, and requires special training. Although anyone with fluency in a foreign language could attempt to translate a court proceeding, the best interpreters are those that have been tested and certified as official court interpreters.

Making the problem worse, States continue to fall further behind as the number of Americans with limited English proficiency—and therefore the demand for court interpreter services—continues to grow. According to the most recent Census data, 20 percent of the population over age five speaks a language other than English at home. In 2000, the number of people in this country who spoke English less than ''very well'' was more than 21 million, approaching twice what the number was 10 years earlier. Illinois had more than 1 million. Texas had nearly 2.7 million. California had more than 6.2 million.

The shortage of qualified interpreters has become a national problem, and it has serious consequences. In Pennsylvania, a committee established by the state Supreme Court called the State's interpreter program ''backward,'' and said that the lack of qualified interpreters ''undermines the ability of the . . . court system to determine facts accurately and to dispense justice fairly.'' When interpreters are unqualified, or untrained, mistakes are made. The result is that the fundamental right to due process is too often lost in translation, and because the lawyers and judges are not interpreters, these mistakes often go unnoticed.

Some of the stories associated with this problem are simply unbelievable. In Pennsylvania, for instance, a husband accused of abusing his wife was asked to translate as his wife testified in court. In Ohio, a woman was wrongly placed on suicide watch after an unqualified interpreter mistranslated her words. In February 2007 testimony before the Judiciary Committee, Justice Kennedy described a particularly alarming situation where bilingual jurors can understand what the witness is saying and then interrupt the proceeding when an interpreter has not accurately represented the witness' testimony. Justice Kennedy agreed that the lack of qualified court interpreters poses a significant threat to our judicial system, and emphasized the importance of addressing the issue.

This legislation does just that by authorizing $15 million per year, over 5 years, for a state Court Interpreter Grant Program. The bill does not merely send Federal dollars to States to pay for court interpreters. It will provide much needed ''seed money'' for States to start or bolster their court interpreter programs to recruit, train, test, and certify court interpreters. Those States that apply would be eligible for a $100,000 base grant allotment. In addition, $5 million would be set aside for States that demonstrate extraordinary need. The remainder of the money would be distributed on a formula basis, determined by the percentage of persons in that State over the age of five who speak a language other than English at home.

Some will undoubtedly question whether this modest amount can make a difference. It can, and my home State of Wisconsin is a perfect example of that. When Wisconsin's court interpreter program got off the ground in 2004, using State money and a $250,000 Federal grant, certified interpreters were scarce. Now, 5 years later, it has certified 48 interpreters. Most of those are certified in Spanish, where the greatest need exists. However, the State also has interpreters certified in sign language and German. The list of provisional interpreters—those who have received training and passed written tests—is much longer and includes individuals trained in Russian, Hmong, Korean, and other languages. All of this progress in only 5 years, and with only $250,000 of Federal assistance.

This legislation has the strong support of state court administrators and state supreme court justices around the country. Our States are facing this difficult challenge, and Federal law requires them to meet it. Despite their noble efforts, many of them have been unable to keep up with the demand. It is time we lend them a helping hand. This is an access issue, and no one should be denied justice or access to our courts merely because of a language barrier. I strongly urge my colleagues to support this critical legislation.

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

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

S. 1329

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 ''State Court Interpreter Grant Program Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the fair administration of justice depends on the ability of all participants in a courtroom proceeding to understand that proceeding, regardless of their English proficiency;

(2) 19 percent of the population of the United States over 5 years of age speaks a language other than English at home;

(3) only qualified court interpreters can ensure that persons with limited English proficiency comprehend judicial proceedings in which they are a party;

(4) the knowledge and skills required of a qualified court interpreter differ substantially from those required in other interpretation settings, such as social service, medical, diplomatic, and conference interpreting;

(5) the Federal Government has demonstrated its commitment to equal administration of justice regardless of English proficiency;

(6) regulations implementing title VI of the Civil Rights Act of 1964, as well as the guidance issued by the Department of Justice pursuant to Executive Order 13166, issued August 11, 2000, clarify that all recipients of Federal financial assistance, including State courts, are required to take reasonable steps to provide meaningful access to their proceedings for persons with limited English proficiency;

(7) 40 States have developed, or are developing, qualified court interpreting programs;

(8) robust, effective court interpreter programs—

(A) actively recruit skilled individuals to be court interpreters;

(B) train those individuals in the interpretation of court proceedings;

(C) develop and use a thorough, systematic certification process for court interpreters; and

(D) have sufficient funding to ensure that a qualified interpreter will be available to the court whenever necessary; and

(9) Federal funding is necessary to—

(A) encourage State courts that do not have court interpreter programs to develop them;

(B) assist State courts with nascent court interpreter programs to implement them;

(C) assist State courts with limited court interpreter programs to enhance them; and

(D) assist State courts with robust court interpreter programs to make further improvements and share successful programs with other States.

SEC. 3. STATE COURT INTERPRETER PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Administrator of the Office of Justice Programs of the Department of Justice (referred to in this section as the ''Administrator'') shall make grants, in accordance with such regulations as the Attorney General may prescribe, to State courts to develop and implement programs

to assist individuals with limited English proficiency to access and understand State court proceedings in which they are a party.

(2) TECHNICAL ASSISTANCE.—The Administrator shall allocate, for each fiscal year, $500,000 of the amount appropriated pursuant to section 4 to be used to establish a court interpreter technical assistance program to assist State courts receiving grants under this Act.

(b) USE OF GRANTS.—Grants awarded under subsection (a) may be used by State courts to—

(1) assess regional language demands;

(2) develop a court interpreter program for the State courts;

(3) develop, institute, and administer language certification examinations;

(4) recruit, train, and certify qualified court interpreters;

(5) pay for salaries, transportation, and technology necessary to implement the court interpreter program developed under paragraph (2); and

(6) engage in other related activities, as prescribed by the Attorney General.

(c) APPLICATION.—

(1) IN GENERAL.—The highest State court of each State desiring a grant under this section shall submit an application to the Administrator at such time, in such manner, and accompanied by such information as the Administrator may reasonably require.

(2) STATE COURTS.—The highest State court of each State submitting an application under paragraph (1) shall include in the application—

(A) a demonstration of need for the development, implementation, or expansion of a State court interpreter program;

(B) an identification of each State court in that State which would receive funds from the grant;

(C) the amount of funds each State court identified under subparagraph (B) would receive from the grant; and

(D) the procedures the highest State court would use to directly distribute grant funds to State courts identified under subparagraph (B).

(d) STATE COURT ALLOTMENTS.—

(1) BASE ALLOTMENT.—From amounts appropriated for each fiscal year pursuant to section 4, the Administrator shall allocate $100,000 to each of the highest State court of each State, which has an application approved under subsection (c).

(2) DISCRETIONARY ALLOTMENT.—From amounts appropriated for each fiscal year pursuant to section 4, the Administrator shall allocate $5,000,000 to be distributed among the highest State courts of States which have an application approved under subsection (c), and that have extraordinary needs that are required to be addressed in order to develop, implement, or expand a State court interpreter program.

(3) ADDITIONAL ALLOTMENT.—In addition to the allocations made under paragraphs (1) and (2), the Administrator shall allocate to each of the highest State court of each State, which has an application approved under subsection (c), an amount equal to the product reached by multiplying—

(A) the unallocated balance of the amount appropriated for each fiscal year pursuant to section 4; and

(B) the ratio between the number of people over 5 years of age who speak a language other than English at home in the State and the number of people over 5 years of age who speak a language other than English at home in all the States that receive an allocation under paragraph (1), as those numbers are determined by the Bureau of the Census.

(4) TREATMENT OF DISTRICT OF COLUMBIA.—For purposes of this section—

(A) the District of Columbia shall be treated as a State; and

(B) the District of Columbia Court of Appeals shall act as the highest State court for the District of Columbia.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $15,000,000 for each of the fiscal years 2010 through 2014 to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 200—DESIGNATING SEPTEMBER 12, 2009, AS ''NATIONAL CHILDHOOD CANCER AWARENESS DAY''

Mr. UDALL of Colorado (for himself and Mr. ISAKSON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 200

Whereas childhood cancer is the leading cause of death by disease for children in the United States;

Whereas an estimated 12,500 children in this Nation are diagnosed with cancer each year;

Whereas an estimated 2,300 children in this Nation lose their lives to cancer each year;

Whereas the results of peer-reviewed clinical trials have raised the standard of care and improved the 5-year cancer survival rate in children to greater than 80 percent overall;

Whereas more than 40,000 children and adolescents in the United States currently are being treated for childhood cancers;

Whereas up to 2/3 of childhood cancer survivors are likely to experience at least one life-altering or life-threatening late effect from treatment; and

Whereas childhood cancer occurs regularly and randomly and spares no racial or ethnic group, socioeconomic class, or geographic region: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 12, 2009, as ''National Childhood Cancer Awareness Day'';

(2) requests that the Federal Government, States, localities, and nonprofit organizations observe the day with appropriate programs and activities, with the goal of increasing public knowledge of the risks of cancer;

(3) recognizes the profound toll a diagnosis of cancer has on children, families, and communities and pledges to make its prevention and cure a public health priority; and

(4) urges public and private sector efforts to promote awareness, invest in research, and improve treatments for childhood cancer.

SENATE RESOLUTION 201—RECOGNIZING AND HONORING THE TENTH ANNIVERSARY OF THE UNITED STATES SUPREME COURT DECISION IN OLMSTEAD V. L.C., 527 U.S. 581 (1999)

Mr. HARKIN (for himself and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to:

S. RES. 201

Whereas in the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (referred to in this preamble as the ''ADA''), Congress found that the isolation and segregation of individuals with disabilities is a serious and pervasive form of discrimination;

Whereas the ADA provides the guarantees of equality of opportunity, economic self-sufficiency, full participation, and independent living for individuals with disabilities;

Whereas on June 22, 1999, the United States Supreme Court in Olmstead v. L.C., 527 U.S. 581 (1999), held that under the ADA, States must offer qualified individuals with disabilities the choice to receive their long-term services and support in a community-based setting;

Whereas the Supreme Court further recognized in Olmstead v. L.C. that ''institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life'' and that ''confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.'';

Whereas June 22, 2009, marks the tenth anniversary of the Olmstead v. L.C. decision;

Whereas, as a result of the Supreme Court decision in Olmstead v. L.C., many individuals with disabilities have been able to live in home and community-based settings, rather than institutional settings, and to become productive members of the community;

Whereas despite this success, community-based services and supports remain unavailable for many individuals with significant disabilities;

Whereas eligible families of children with disabilities, working-age adults with disabilities, and older individuals with disabilities should be able to make a choice between entering an institution or receiving long-term services and supports in the most integrated setting appropriate to the individual's needs; and

Whereas families of children with disabilities, working-age adults with disabilities, and older individuals with disabilities should retain the greatest possible control over the services received and, therefore, their own lives and futures, including quality services that maximize independence in the home and community: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the tenth anniversary of the Supreme Court decision in Olmstead v. L.C.;

(2) salutes all people whose efforts have contributed to the expansion of home and community-based long-term services and supports for individuals with disabilities; and

(3) encourages all people of the United States to recognize the importance of ensuring that home and community-based services are equally available to all qualified individuals with significant disabilities who choose to remain in their home and community.

SENATE CONCURRENT RESOLUTION 30—COMMENDING THE BUREAU OF LABOR STATISTICS ON THE OCCASION OF ITS 125TH ANNIVERSARY

Mr. SCHUMER (for himself, Mr. BROWNBACK, and Mrs. MURRAY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 30

Whereas the Act entitled ''An Act to establish a Bureau of Labor'', approved on June 27, 1884 (23 Stat. 60), established a bureau to ''collect information upon the subject of labor, its relation to capital, the hours of

labor, and the earnings of laboring men and women, and the means of promoting their material, social, intellectual, and moral prosperity'';

Whereas the Bureau of Labor Statistics is the principal factfinding agency for the Federal Government in the broad field of labor economics and statistics, and in that role it collects, processes, analyzes, and disseminates essential statistical data to the public, Congress, other Federal agencies, State and local governments, business, and labor;

Whereas the Bureau of Labor Statistics has completed 125 years of service to government, business, labor, and the public by producing indispensable data and special studies on prices, employment and unemployment, productivity, wages and other compensation, economic growth, industrial relations, occupational safety and health, the use of time by the people of the United States, and the economic conditions of States and metropolitan areas;

Whereas many public programs and private transactions are dependent today on the quality of such statistics of the Bureau of Labor Statistics as the unemployment rate and the Consumer Price Index, which play essential roles in the allocation of Federal funds and the adjustment of pensions, welfare payments, private contracts, and other payments to offset the impact of inflation;

Whereas the Bureau of Labor Statistics pursues these responsibilities with absolute integrity and is known for being unfailingly responsive to the need for new types of information and indexes of change;

Whereas the Bureau of Labor Statistics has earned an international reputation as a leader in economic and social statistics;

Whereas the Bureau of Labor Statistics' Internet website, www.bls.gov, began operating in 1995 and meets the public need for timely and accurate information by providing an ever-expanding body of economic data and analysis available to an ever-growing group of online citizens; and

Whereas the Bureau of Labor Statistics has established the highest standards of professional competence and commitment: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends the Bureau of Labor Statistics on the occasion of its 125th anniversary for the exemplary service its administrators and employees provide in collecting and disseminating vital information for the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1364. Mr. REID (for Mr. KENNEDY (for himself and Mr. ENZI)) proposed an amendment to the bill H.R. 1777, to make technical corrections to the Higher Education Act of 1965, and for other purposes.

TEXT OF AMENDMENTS

SA 1364. Mr. REID (for Mr. KENNEDY (for himself and Mr. ENZI)) proposed an amendment to the bill H.R. 1777, to make technical corrections to the Higher Education Act of 1965, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 3. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect as if enacted on the date of enactment of the Higher Education Opportunity Act (Public Law 110–315).

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL PROVISIONS.

(a) HIGHER EDUCATION OPPORTUNITY ACT.—

(1) GENERAL DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—Section 101(b) of the Higher Education Opportunity Act (Public Law 110–315) is amended by striking ''July 1, 2010'' and inserting ''the date of enactment of this Act''.

(2) DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.—Section 102(e) of the Higher Education Opportunity Act (Public Law 110-315) is amended by striking the period at the end and inserting '', except that, with respect to foreign nursing schools that were eligible to participate in part B of title IV as of the day before the date of enactment of this Act, the amendments made by subsection (a)(1)(D) shall take effect on July 1, 2012.''.

(b) HIGHER EDUCATION ACT OF 1965.—Title I (20 U.S.C. 1001 et seq.) is amended—

(1) in section 102(a)(2)(D) (20 U.S.C. 1002(a)(2)(D)), by striking ''under part B'' and inserting ''under part B of title IV'';

(2) in section 111(b) (20 U.S.C. 1011(b)), by striking ''With'' and inserting ''with'';

(3) in section 131(a)(3)(A)(iii)(I) (20 U.S.C. 1015(a)(3)(A)(iii)(I)), by striking ''section 428(a)(2)(C)(i)'' and inserting ''section 428(a)(2)(C)(ii)'';

(4) in section 136(d)(1) (20 U.S.C. 1015e(d)(1)), by striking ''(Family Educational Rights and Privacy Act of 1974)'' and inserting ''(commonly known as the 'Family Educational Rights and Privacy Act of 1974')'';

(5) in section 141 (20 U.S.C. 1018)—

(A) in the matter preceding subparagraph (A) of subsection (c)(3), by striking ''under this title'' and inserting ''under title IV''; and

(B) in subsection (d)(3), by striking ''appropriate committees of Congress'' and inserting ''authorizing committees'';

(6) in section 153(a)(1)(B)(iii)(V) (20 U.S.C. 1019b(a)(1)(B)(iii)(V)), by striking ''borrowers who take out loans under'' each place the term appears and inserting ''borrowers of loans made under''; and

(7) in section 155(a) (20 U.S.C. 1019d(a)), by striking paragraph (4) and inserting the following:

''(4) include a place to provide information on—

''(A) the applicant's cost of attendance at the institution of higher education, as determined by the institution under part F of title IV;

''(B) the applicant's estimated financial assistance, including amounts of financial assistance used to replace the expected family contribution, as determined by the institution, in accordance with title IV, for students who have completed the Free Application for Federal Student Aid; and

''(C) the difference between the amounts under subparagraphs (A) and (B), as applicable; and''.

TITLE II—TEACHER QUALITY ENHANCEMENT

SEC. 201. TEACHER QUALITY ENHANCEMENT.

Title II (20 U.S.C. 1021 et seq.) is amended—

(1) in section 200(22) (20 U.S.C. 1021(22)), by striking subparagraph (D) and inserting the following:

''(D) prior to completion of the program—

''(i) attains full State certification or licensure and becomes highly qualified; and

''(ii) acquires a master's degree not later than 18 months after beginning the program.'';

(2) in section 202 (20 U.S.C. 1022a)—

(A) in subsection (b)(6)(E)(ii), by striking ''section 1111(b)(2)'' and inserting ''section 1111(b)(1)'';

(B) in subsection (c)(1), by striking ''pre-baccalaureate'';

(C) in subsection (d)—

(i) in the heading, by striking ''PRE-BACCALAUREATE'' and inserting ''THE''; and

(ii) in the matter preceding paragraph (1), by striking ''An eligible partnership that receives a grant to carry out an effective program for the pre-baccalaureate preparation of teachers shall carry out a program that includes all of the following:'' and inserting ''An eligible partnership that receives a grant to carry out a program for the preparation of teachers shall carry out an effective pre-baccalaureate teacher preparation program or a 5th year initial licensing program that includes all of the following:'';

(D) in subsection (e)(2)—

(i) in subparagraph (A)(ii), by striking ''to earn'' and inserting ''leading to''; and

(ii) in subparagraph (C)—

(I) in clause (i), by striking ''one-year'' before ''teaching residency program''; and

(II) in clause (iii)(I), by striking ''one-year''; and

(E) in subsection (i)(3), by striking ''consent of'' and inserting ''consent to''; and

(3) in section 231(a)(1) (20 U.S.C. 1032(a)(1)), by striking ''serve graduate'' and inserting ''assist in the graduation of''.

TITLE III—INSTITUTIONAL AID

SEC. 301. INSTITUTIONAL AID.

Title III (20 U.S.C. 1051 et seq.) is amended—

(1) in section 316 (20 U.S.C. 1059c)—

(A) in subsection (a), by striking ''Indian Tribal'' and inserting ''Tribal''; and

(B) in subsection (b)—

(i) in paragraph (1), by striking ''the Tribally Controlled College or University Assistance Act of 1978'' and inserting ''the Tribally Controlled Colleges and Universities Assistance Act of 1978'';

(ii) in paragraph (2), by striking ''the Tribally Controlled College or University Assistance Act of 1978'' and inserting ''the Tribally Controlled Colleges and Universities Assistance Act of 1978''; and

(iii) in paragraph (3)(A), by striking ''the Navajo Community College Assistance Act of 1978'' and inserting ''the Navajo Community College Act'';

(2) in section 318(b)(1) (20 U.S.C. 1059e(b)(1)), by striking subparagraph (F) and inserting the following:

''(F) is not receiving assistance under—

''(i) part B;

''(ii) part A of title V; or

''(iii) an annual authorization of appropriations under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123).'';

(3) in section 323(a) (20 U.S.C. 1062(a)), in the matter preceding paragraph (1), by striking ''in any fiscal year'' and inserting ''for any fiscal year,'';

(4) in section 324(d) (20 U.S.C. 1063(d))—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking ''Notwithstanding subsections (a)'' and inserting ''(1) Notwithstanding subsections (a)''; and

(C) by adding at the end the following:

''(2) If the amount appropriated pursuant to section 399(a)(2)(A) for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocations shall be increased on the same basis as the basis on which they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).'';

(5) in section 351(a) (20 U.S.C. 1067a(a))—

(A) by striking ''section 304(a)(1)'' and inserting ''section 303(a)(1)''; and

(B) by striking ''of 1979'';

(6) in section 355(a) (20 U.S.C. 1067e(a)), by striking ''302'' and inserting ''312'';

(7) in section 371(c) (20 U.S.C. 1067q(c))—

(A) in paragraph (3)(D), by striking ''402A(g)'' and inserting ''402A(h)'';

(B) in paragraph (4), by striking ''402A(g)'' and inserting ''402A(h)''; and

(C) in paragraph (9)—

(i) in subparagraph (C)(iii), by striking ''402A(g)'' and inserting ''402A(h)''; and

(ii) by amending subparagraph (F) to read as follows:

''(F) is not receiving assistance under—

''(i) part B;

''(ii) part A of title V; or

''(iii) an annual authorization of appropriations under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123).''; and

(8) in section 392(a)(6) (20 U.S.C. 1068a(a)(6)), by striking ''College or University'' and inserting ''Colleges and Universities''.

SEC. 302. MULTIAGENCY STUDY OF MINORITY SCIENCE PROGRAMS.

Section 1024 (20 U.S.C. 1067d) is repealed.

TITLE IV—STUDENT ASSISTANCE

SEC. 401. GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION.

(a) AMENDMENTS.—Part A of title IV (20 U.S.C. 1070 et seq.) is amended—

(1) in section 400(b) (20 U.S.C. 1070(b)), by striking ''1 through 8'' and inserting ''1 through 9'';

(2) in section 401 (20 U.S.C. 1070a)—

(A) in the second sentence of subsection (a)(1), by striking ''manner,,'' and inserting ''manner,'';

(B) in subsection (b)(1), by striking ''section 401'' and inserting ''this section''; and

(C) in subsection (b)(9)(A)—

(i) in clause (vi), by striking ''$105,000,000'' and inserting ''$258,000,000''; and

(ii) in clause (viii), by striking ''$4,400,000,000'' and inserting ''$4,452,000,000'';

(3) by striking paragraph (4) of section 401(f) (20 U.S.C. 1070a(f)), as added by section 401(c) of the Higher Education Opportunity Act (Public Law 110–315);

(4) in section 402A (20 U.S.C. 1070a–11)—

(A) in subsection (b)(1), by striking ''organizations including'' and inserting ''organizations, including''; and

(B) in subsection (c)(8)(C)(iv)(I), by inserting ''to be'' after ''determined'';

(5) in section 402E(d)(2)(C) (20 U.S.C. 1070a–15(d)(2)(C)), by striking ''320.'' and inserting ''320'';

(6) in section 415E(b)(1)(B) (20 U.S.C. 1070c–3a(b)(1)(B))—

(A) in clause (i), by striking ''If a'' and inserting ''Except as provided in clause (ii), if a'';

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) (as amended by subparagraph (A)) the following:

''(ii) SPECIAL CONTINUATION AND TRANSITION RULE.—If a State that applied for and received an allotment under this section for fiscal year 2010 pursuant to subsection (j) meets the specifications established in the State's application under subsection (c) for fiscal year 2011, then the Secretary shall make an allotment to such State for fiscal year 2011 that is not less than the allotment made pursuant to subsection (j) to such State for fiscal year 2010 under this section (as this section was in effect on the day before the date of enactment of the Higher Education Opportunity Act (Public Law 110–315)).'';

(7) in section 419C(b)(1) (20 U.S.C. 1070d–33(b)(1)), by inserting ''and'' after the semicolon at the end;

(8) in section 419D(d) (20 U.S.C. 1070d–34(d)), by striking ''1134'' and inserting ''134''; and

(9) by adding at the end the following:

''Subpart 10—Scholarships for Veteran's Dependents

''SEC. 420R. SCHOLARSHIPS FOR VETERAN'S DEPENDENTS.

''(a) DEFINITION OF ELIGIBLE VETERAN'S DEPENDENT.—The term 'eligible veteran's dependent' means a dependent or an independent student—

''(1) whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

''(2) who, at the time of the parent or guardian's death, was—

''(A) less than 24 years of age; or

''(B) enrolled at an institution of higher education on a part-time or full-time basis.

''(b) GRANTS.—

''(1) IN GENERAL.—The Secretary shall award a grant to each eligible veteran's dependent to assist in paying the eligible veteran's dependent's cost of attendance at an institution of higher education.

''(2) DESIGNATION.—Grants made under this section shall be known as 'Iraq and Afghanistan Service Grants'.

''(c) PREVENTION OF DOUBLE BENEFITS.—No eligible veteran's dependent may receive a grant under both this section and section 401.

''(d) TERMS AND CONDITIONS.—The Secretary shall award grants under this section in the same manner, and with the same terms and conditions, including the length of the period of eligibility, as the Secretary awards Federal Pell Grants under section 401, except that—

''(1) the award rules and determination of need applicable to the calculation of Federal Pell Grants, shall not apply to grants made under this section;

''(2) the provisions of subsection (a)(3), subsection (b)(1), the matter following subsection (b)(2)(A)(v), subsection (b)(3), and subsection (f), of section 401 shall not apply; and

''(3) a grant made under this section to an eligible veteran's dependent for any award year shall equal the maximum Federal Pell Grant available for that award year, except that such a grant under this section—

''(A) shall not exceed the cost of attendance of the eligible veteran's dependent for that award year; and

''(B) shall be adjusted to reflect the attendance by the eligible veteran's dependent on a less than full-time basis in the same manner as such adjustments are made under section 401.

''(e) ESTIMATED FINANCIAL ASSISTANCE.—For purposes of determinations of need under part F, a grant awarded under this section shall not be treated as estimated financial assistance as described in sections 471(3) and 480(j).

''(f) AUTHORIZATION AND APPROPRIATIONS OF FUNDS.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Secretary to carry out this section, such sums as may be necessary for fiscal year 2010 and each succeeding fiscal year.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(9) shall take effect on July 1, 2010.

(c) HIGHER EDUCATION OPPORTUNITY ACT.—Section 404 of the Higher Education Opportunity Act (Public Law 110–315) is amended by adding at the end the following new subsection:

''(i) EFFECTIVE DATE; TRANSITION.—

''(1) IN GENERAL.—The amendments made by subsection (e) shall apply to grants made under chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–21 et seq.) on or after the date of enactment of this Act, except that a recipient of a grant under such chapter that is made prior to such date may elect to apply the requirements contained in the amendments made by subsection (e) to that grant if the grant recipient informs the Secretary of the election.

''(2) SPECIAL RULE.—A grant recipient may make the election described in paragraph (1) only if the election does not decrease the amount of the scholarship promised to an individual student under the grant.''.

SEC. 402. FEDERAL FAMILY EDUCATION LOAN PROGRAM.

(a) AMENDMENT TO PROVISION AMENDED BY THE COLLEGE COST REDUCTION AND ACCESS ACT.—

(1) IN GENERAL.—Section 428(b)(1)(G)(i) (20 U.S.C. 1078(b)(1)(G)(i)), as amended by section 303 of the College Cost Reduction and Access Act (Public Law 110–84), is amended by striking ''or 439(q)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if enacted as part of the amendment in section 303(a) of the College Cost Reduction and Access Act (Public Law 110–84), shall take effect on October 1, 2012, and shall apply with respect to loans made on or after such date.

(b) ENTRANCE COUNSELING FUNCTIONS.—

(1) GUARANTY AGENCIES.—Section 428(b)(3) (20 U.S.C. 1078(b)(3)) is amended—

(A) in subparagraph (C), by inserting ''or 485(l)'' after ''section 485(b)''; and

(B) in subparagraph (D), by inserting ''or 485(l)'' after ''section 485(b)''.

(2) ELIGIBLE LENDERS.—Section 435(d)(5) (20 U.S.C. 1085(d)(5)) is amended—

(A) in subparagraph (E), by inserting ''or 485(l)'' after ''section 485(b)''; and

(B) in subparagraph (F), by inserting ''or 485(l)'' after ''section 485(b)''.

(c) AMENDMENT TO PROVISION AMENDED BY THE HIGHER EDUCATION OPPORTUNITY ACT.—

(1) IN GENERAL.—Section 428C(c)(3)(A) (20 U.S.C. 1078–3(c)(3)(A)), as amended by section 425 of the Higher Education Opportunity Act (Public Law 110–315), is amended by striking ''section 493C'' and inserting ''section 493C,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if enacted as part of the amendments in section 425(d)(1) of the Higher Education Opportunity Act (Public Law 110–315), and shall take effect on July 1, 2009.

(d) REHABILITATION OF STUDENT LOANS.—

(1) Section 428F (20 U.S.C. 1078–6) is amended—

(A) in subsection (a)—

(i) by amending paragraph (1) to read as follows:

''(1) SALE OR ASSIGNMENT OF LOAN.—

''(A) IN GENERAL.—Each guaranty agency, upon securing 9 payments made within 20 days of the due date during 10 consecutive months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 428(c), shall—

''(i) if practicable, sell the loan to an eligible lender; or

''(ii) on or before September 30, 2011, assign the loan to the Secretary if—

''(I) the Secretary has determined that market conditions unduly limit a guaranty agency's ability to sell loans under clause (i); and

''(II) the guaranty agency has been unable to sell loans under clause (i).

''(B) MONTHLY PAYMENTS.—Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts described in subparagraph (A) more than is reasonable and affordable based on the borrower's total financial circumstances.

''(C) CONSUMER REPORTING AGENCIES.—Upon the sale or assignment of the loan, the Secretary, guaranty agency or other holder of the loan shall request any consumer reporting agency to which the Secretary, guaranty agency or holder, as applicable, reported the default of the loan, to remove the record of the default from the borrower's credit history.

''(D) DUTIES UPON SALE.—With respect to a loan sold under subparagraph (A)(i)—

''(i) the guaranty agency—

''(I) shall repay the Secretary 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

''(II) may, in order to defray collection costs—

''(aa) charge to the borrower an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of the loan sale; and

''(bb) retain such amount from the proceeds of the loan sale; and

''(ii) the Secretary shall reinstate the Secretary's obligation to—

''(I) reimburse the guaranty agency for the amount that the agency may, in the future, expend to discharge the guaranty agency's insurance obligation; and

''(II) pay to the holder of such loan a special allowance pursuant to section 438.

''(E) DUTIES UPON ASSIGNMENT.—With respect to a loan assigned under subparagraph (A)(ii)—

''(i) the guaranty agency shall add to the principal and interest outstanding at the time of the assignment of such loan an amount equal to the amount described in subparagraph (D)(i)(II)(aa); and

''(ii) the Secretary shall pay the guaranty agency, for deposit in the agency's Operating Fund established pursuant to section 422B, an amount equal to the amount added to the principal and interest outstanding at the time of the assignment in accordance with clause (i).

''(E) ELIGIBLE LENDER LIMITATION.—A loan shall not be sold to an eligible lender under subparagraph (A)(i) if such lender has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

''(F) DEFAULT DUE TO ERROR.—A loan that does not meet the requirements of subparagraph (A) may also be eligible for sale or assignment under this paragraph upon a determination that the loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.'';

(ii) in paragraph (2)—

(I) by striking ''paragraph (1) of this subsection'' and inserting ''paragraph (1)(A)(i)''; and

(II) by striking ''paragraph (1)(B)(ii) of this subsection'' and inserting ''paragraph (1)(D)(ii)(I)'';

(iii) in paragraph (3)—

(I) by striking ''sold under paragraph (2)'' and inserting ''sold or assigned under paragraph (1)(A)''; and

(II) by striking ''sale.'' and inserting ''sale or assignment.'';

(iv) in paragraph (4), by striking ''which is sold under paragraph (1) of this subsection'' and inserting ''that is sold or assigned under paragraph (1)''; and

(v) in paragraph (5), by inserting ''(whether by loan sale or assignment)'' after ''rehabilitating a loan''; and

(B) in subsection (b), in the first sentence, by inserting ''or assigned to the Secretary'' after ''sold to an eligible lender''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective on the date of enactment of this Act, and shall apply to any loan on which monthly payments described in section 428F(a)(1)(A) were paid before, on, or after such date of enactment.

(e) REPAYMENT IN FULL FOR DEATH AND DISABILITY.—

(1) IN GENERAL.—Section 437(a)(1) (20 U.S.C. 1087(a)(1)), as amended by section 437 of the Higher Education Opportunity Act (Public Law 110–315), is amended—

(A) in the matter preceding subparagraph (A), by striking ''Secretary),, or if'' and inserting ''Secretary), or if''; and

(B) in subparagraph (B), by inserting ''the reinstatement and resumption to be'' after ''determines''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if enacted as part of the amendments in section 437(a) of the Higher Education Opportunity Act (Public Law 110–315), and shall take effect on July 1, 2010.

(f) OTHER AMENDMENTS.—Part B of title IV (20 U.S.C. 1071 et seq.) is further amended—

(1) in section 428 (20 U.S.C. 1078)—

(A) in subsection (a)(2)(A)(i)(II), by striking ''and'' after the semicolon at the end;

(B) in subsection (b)—

(i) in the matter following subclause (II) of paragraph (1)(M)(i), by inserting ''section'' before ''428B'';

(ii) in paragraph (3)(A)(i), by striking ''any institution of higher education or the employees of an institution of higher education'' and inserting ''any institution of higher education, any employee of an institution of higher education, or any individual or entity'';

(iii) in paragraph (4), by striking ''For the purpose of paragraph (1)(M)(i)(III) of this subsection,'' and inserting ''With respect to the graduate fellowship program referred to in paragraph (1)(M)(i)(II),''; and

(iv) in paragraph (7)—

(I) in subparagraph (B), by striking ''clause (i) or (ii) of''; and

(II) in subparagraph (D), by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)''; and

(C) in subsection (c)(9)(K), by striking ''3 months'' and inserting ''6 months'';

(2) in section 428B(e) (20 U.S.C. 1078–2(e))—

(A) in paragraph (3)(B), by striking ''subsection (c)(5)(B)'' and inserting ''subsection (d)(5)(B)''; and

(B) by repealing paragraph (5);

(3) in section 428C (20 U.S.C. 1078–3)—

(A) in subsection (a)(4)(E), by striking ''subpart II of part B'' and inserting ''part E'';

(B) in the matter preceding clause (i) of subsection (c)(2)(A)—

(i) by striking ''subsection (b)(2)(F)'' and inserting ''subsection (b)(2)''; and

(ii) by inserting a comma after ''graduated'';

(C) in subsection (d)(3)(D), by striking ''loan insurance fund'' and inserting ''loan insurance account''; and

(D) in subsection (f)(3), by striking ''subsection (a)'' and inserting ''this subsection'';

(4) in section 428G(c) (20 U.S.C. 1078–7(c))—

(A) in paragraph (1), by striking ''section 428(a)(2)(A)(i)(III)'' and inserting ''section 428(a)(2)(A)(i)(II)''; and

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

''(3) notwithstanding subsection (a)(2), may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed by the lender in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.'';

(5) in section 428H (20 U.S.C. 1078–8)—

(A) in subsection (d), by amending the text of the header of paragraph (2) to read as follows: ''LIMITS FOR GRADUATE, PROFESSIONAL, AND INDEPENDENT POSTBACCALAUREATE STUDENTS''; and

(B) in subsection (e), by amending paragraph (6) to read as follows:

''(6) REPAYMENT PERIOD.—For purposes of calculating the repayment period under section 428(b)(9), such period shall commence at the time the first payment of principal is due from the borrower.'';

(6) in section 428J (20 U.S.C. 1078–10)—

(A) in subsection (c)(1), by adding at the end the following: ''No borrower may receive a reduction of loan obligations under both this section and section 460.''; and

(B) in subsection (g)(2)—

(i) in subparagraph (B), by inserting ''or'' after the semicolon at the end;

(ii) by striking subparagraph (C);

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(iv) in subparagraph (C), as redesignated by clause (iii), by striking ''12571'' and inserting ''12601'';

(7) in section 428K(g)(9)(B) (20 U.S.C. 1078–11(g)(9)(B)), by striking ''under subsection (ll)(3) of such section (42 U.S.C. 1395x(ll)(3))'' and inserting ''under subsection (ll)(4) of such section (42 U.S.C. 1395x(ll)(4))'';

(8) in section 430A(f) (20 U.S.C. 1080a(f))—

(A) by striking ''and (6)'' and inserting ''and (5)''; and

(B) by striking ''(a)(6)'' and inserting ''(a)(5)'';

(9) in section 432 (20 U.S.C. 1082)—

(A) in subsection (b), by striking ''section 1078 of this title'' and inserting ''section 428''; and

(B) in subsection (m)(1)(B)—

(i) in clause (i), by inserting ''and'' after the semicolon at the end; and

(ii) in clause (ii), by striking ''; and'' and inserting a period;

(10) in section 435 (20 U.S.C. 1085)—

(A) in subsection (a)(2)(C)(ii), by striking ''a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978'' and inserting ''a tribally controlled college or university, as defined in section 2(a)(4) of the Tribally Controlled Colleges and Universities Assistance Act of 1978'';

(B) in subsection (d)—

(i) in paragraph (1)—

(I) in subparagraph (A)(ii)(III), by striking ''section 501(1) of such Code'' and inserting ''section 501(a) of such Code''; and

(II) in subparagraph (G), by striking ''sections 428A(d), 428B(d), and 428C,'' and inserting ''sections 428B(d) and 428C,'';

(ii) in paragraph (2)(A)(vi), by striking ''section 435(m)'' and inserting ''subsection (m)'';

(iii) in paragraph (3), by striking ''section 435(m)'' and inserting ''subsection (m)''; and

(iv) in paragraph (5)(A), by striking ''to any institution of higher education or any employee of an institution of higher education in order to secure applicants for loans under this part'' and inserting ''to any institution of higher education, any employee of an institution of higher education, or any individual or entity in order to secure applicants for loans under this part'';

(C) in subsection (o)(1)(A)(ii), by striking ''Service'' and inserting ''Services''; and

(D) in subsection (p)(1), by striking ''section 771'' and inserting ''section 781''; and

(11) in section 438(b)(2) (20 U.S.C. 1087–1(b)(2))—

(A) in the second sentence of subparagraph (A), by striking ''427A(f)'' and inserting ''427A(i)'';

(B) in the first sentence of subparagraph (B)(i), by striking ''1954'' and inserting ''1986''; and

(C) in the second sentence of subparagraph (F), by striking ''427A(f)'' and inserting ''427A(i)''.

SEC. 403. FEDERAL WORK-STUDY PROGRAMS.

Section 443 (42 U.S.C. 2753) is amended—

(1) in subsection (b)(2), by striking ''section 443'' and inserting ''this section'';

(2) in subsection (d)(1), by striking ''subsection (b)(2)(B)'' and inserting ''subsection (b)(2)(A)''; and

(3) in subsection (e)(1), in the matter preceding subparagraph (A), by striking ''in accordance with such subsection''.

SEC. 404. FEDERAL DIRECT LOAN PROGRAM.

(a) TEMPORARY AUTHORITY TO PURCHASE LOANS.—Section 459A (20 U.S.C. 1087i–1) is amended—

(1) in subsection (a)—

(A) in paragraph (2), in the matter preceding subparagraph (A), by striking ''purchase of loans under this section'' and inserting ''purchase of loans under paragraph (1)''; and

(B) by inserting after paragraph (2) the following new paragraph:

''(3) TEMPORARY AUTHORITY TO PURCHASE REHABILITATED LOANS.—

''(A) AUTHORITY.—In addition to the authority described in paragraph (1), the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender (as defined in section 435(d)(1)), loans that such lender purchased under section 428F on or after October 1, 2003, and before July 1, 2010, and that are not in default, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this paragraph shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

''(B) FEDERAL REGISTER NOTICE.—The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget shall jointly publish a notice in the Federal Register prior to any purchase of loans under this paragraph that—

''(i) establishes the terms and conditions governing the purchases authorized by this paragraph;

''(ii) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget will jointly consider in evaluating the price at which to purchase loans rehabilitated pursuant to section 428F(a); and

''(iii) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).''; and

(2) by amending subsection (b) to read as follows:

''(b) PROCEEDS.—The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section be used—

''(1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this title; and

''(2)(A) in the case of loans purchased pursuant to subsection (a)(1), to originate new Federal loans to students, as authorized under part B of this title; or

''(B) in the case of loans purchased pursuant to subsection (a)(3), to originate such new Federal loans to students, or to purchase loans in accordance with section 428F(a).''.

(b) OTHER AMENDMENTS.—Part D of title IV (20 U.S.C. 1087a et seq.) is amended—

(1) by repealing paragraph (3) of section 453(c) (20 U.S.C. 1087c(c));

(2) in section 455 (20 U.S.C. 1087e)—

(A) in subsection (d)(1)(C), by striking ''428(b)(9)(A)(v)'' and inserting ''428(b)(9)(A)(iv)'';

(B) in subsection (h), by striking ''(except as authorized under section 457(a)(1))''; and

(C) in subsection (k)(1)(B), by striking '', or in a notice under section 457(a)(1),'';

(3) by repealing section 457 (20 U.S.C. 1087g); and

(4) in section 460 (20 U.S.C. 1087j)—

(A) in subsection (c)(1), by adding at the end the following: ''No borrower may receive a reduction of loan obligations under both this section and section 428J.''; and

(B) in subsection (g)(2)—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively; and

(iii) in subparagraph (C), as redesignated by clause (ii), by striking ''12571'' and inserting ''12601''.

SEC. 405. FEDERAL PERKINS LOANS.

Part E of title IV (20 U.S.C. 1087aa et seq.) is amended—

(1) in section 462(a)(1) (20 U.S.C. 1087bb(a)(1)), by striking subparagraph (A) and inserting the following:

''(A) 100 percent of the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year), multiplied by'';

(2) in section 463(c) (20 U.S.C. 1087cc(c))—

(A) in paragraph (2)—

(i) by moving the margins of subparagraph (A) 2 ems to the left; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) information concerning the repayment and collection of any such loan, including information concerning the status of such loan; and''; and

(B) in paragraph (3)—

(i) by striking ''and (6)'' and inserting ''and (5)''; and

(ii) by striking ''(a)(6)'' and inserting ''(a)(5)'';

(3) in the first sentence of the matter preceding paragraph (1) of section 463A(a) (20 U.S.C. 1087cc–1(a)), by striking '', in order to carry out the provisions of section 463(a)(8),'';

(4) in section 464 (20 U.S.C. 1087dd)—

(A) in subsection (c)—

(i) in paragraph (1)(D)—

(I) by striking ''(I)'' and inserting ''(i)''; and

(II) by striking ''(II)'' and inserting ''(ii)''; and

(ii) in paragraph (2)(A)(iii)—

(I) by aligning the margin of the matter preceding subclause (I) with the margins of clause (ii);

(II) by aligning the margins of subclauses (I) and (II) with the margins of clause (i)(I); and

(III) by aligning the margins of the matter following subclause (II) with the margins of the matter following subclause (II) of clause (i); and

(B) in subsection (g)(5), by striking ''credit bureaus'' and inserting ''consumer reporting agencies'';

(5) in section 465(a)(6) (20 U.S.C. 1087ee(a)(6)), by striking ''12571'' and inserting ''12601'';

(6) in section 467(b) (20 U.S.C. 1087gg(b)), by striking ''paragraph (5)(A), (5)(B)(i), or (6)'' and inserting ''paragraph (4) or (5)''; and

(7) in section 469(c) (20 U.S.C. 1087ii(c)), by striking ''and the term'' and all that follows through the period at the end and inserting ''and the term 'early intervention services' has the meaning given the term in section 632 of such Act.''.

SEC. 406. NEED ANALYSIS.

(a) AMENDMENTS.—Part F of title IV (20 U.S.C. 1087kk et seq.) is amended—

(1) in section 473 (20 U.S.C. 1087mm)—

(A) by striking ''For the purpose of this title, except subpart 2 of part A,'' and inserting ''(a) IN GENERAL.—For the purpose of this title, other than subpart 2 of part A, and except as provided in subsection (b),''; and

(B) by adding at the end the following:

''(b) SPECIAL RULE.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, the family contribution of each student described in paragraph (2) shall be deemed to be zero for the academic year for which the determination is made.

''(2) APPLICABILITY.—Paragraph (1) shall apply to any dependent or independent student with respect to determinations of need for academic year 2009–2010 and succeeding academic years—

''(A) who is eligible to receive a Federal Pell Grant for the academic year for which the determination is made;

''(B) whose parent or guardian was a member of the Armed Forces of the United States

and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

''(C) who, at the time of the parent or guardian's death, was—

''(i) less than 24 years of age; or

''(ii) enrolled at an institution of higher education on a part-time or full-time basis.

''(3) INFORMATION.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs and the Secretary of Defense, as appropriate, shall provide the Secretary of Education with information necessary to determine which students meet the requirements of paragraph (2).'';

(2) in section 475(c)(5)(B) (20 U.S.C. 1087oo(c)(5)(B)), by inserting ''of 1986'' after ''Code'';

(3) in section 477(b)(5)(B) (20 U.S.C. 1087qq(b)(5)(B)), by inserting ''of 1986'' after ''Code'';

(4) in section 479 (20 U.S.C. 1087ss)—

(A) in subsection (b) (as amended by section 602 of the College Cost Reduction and Access Act (Public Law 110–84))—

(i) in paragraph (1)(A)(i), by amending subclause (III) to read as follows:

''(III) include at least one parent who is a dislocated worker; or''; and

(ii) in paragraph (1)(B)(i), by amending subclause (III) to read as follows:

''(III) is a dislocated worker or has a spouse who is a dislocated worker; or''; and

(B) in subsection (c) (as amended by such section 602)—

(i) in paragraph (1)(A), by amending clause (iii) to read as follows:

''(iii) include at least one parent who is a dislocated worker; or''; and

(ii) in paragraph (2)(A), by amending clause (iii) to read as follows:

''(iii) is a dislocated worker or has a spouse who is a dislocated worker; or'';

(5) in section 479C (20 U.S.C. 1087uu–1)—

(A) in paragraph (1), by striking ''under'' and all that follows through ''; and'' and inserting ''under Public Law 98–64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the 'Per Capita Act') or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and''; and

(B) in paragraph (2)—

(i) by striking ''Alaskan'' and inserting ''Alaska'';

(ii) by inserting ''(43 U.S.C. 1601 et seq.)'' before ''or the''; and

(iii) by inserting ''of 1980 (25 U.S.C. 1721 et seq.)'' after ''Maine Indian Claims Settlement Act'';

(6) in section 480(a)(2) (20 U.S.C. 1087vv(a)(2)), by striking ''12571'' and inserting ''12511'';

(7) in section 480(c)(2) (20 U.S.C. 1087vv(c)(2))—

(A) in the matter preceding subparagraph (A), by striking ''the following'' and inserting ''benefits under the following provisions of law''; and

(B) by striking subparagraphs (A) through (J) and inserting the following:

''(A) Chapter 103 of title 10, United States Code (Senior Reserve Officers' Training Corps).

''(B) Chapter 106A of title 10, United States Code (Educational Assistance for Persons Enlisting for Active Duty).

''(C) Chapter 1606 of title 10, United States Code (Selected Reserve Educational Assistance Program).

''(D) Chapter 1607 of title 10, United States Code (Educational Assistance Program for Reserve Component Members Supporting Contingency Operations and Certain Other Operations).

''(E) Chapter 30 of title 38, United States Code (All-Volunteer Force Educational Assistance Program, also known as the 'Montgomery GI Bill—active duty').

''(F) Chapter 31 of title 38, United States Code (Training and Rehabilitation for Veterans with Service-Connected Disabilities).

''(G) Chapter 32 of title 38, United States Code (Post-Vietnam Era Veterans' Educational Assistance Program).

''(H) Chapter 33 of title 38, United States Code (Post-9/11 Educational Assistance).

''(I) Chapter 35 of title 38, United States Code (Survivors' and Dependents' Educational Assistance Program).

''(J) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note) (Educational Assistance Pilot Program).

''(K) Section 156(b) of the 'Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes' (42 U.S.C. 402 note) (Restored Entitlement Program for Survivors, also known as 'Quayle benefits').

''(L) The provisions of chapter 3 of title 37, United States Code, related to subsistence allowances for members of the Reserve Officers Training Corps.''; and

(8) in section 480(j)(1) (20 U.S.C. 1087vv(j)(1)), by striking ''12571'' and inserting ''12511''.

(b) EFFECTIVE DATE.—The amendments made by—

(1) paragraph (1) of subsection (a) shall take effect on July 1, 2009; and

(2) paragraph (4) of such subsection shall be effective as if enacted as part of the amendments in section 602(a) of the College Cost Reduction and Access Act (Public Law 110–84), and shall take effect on July 1, 2009.

(c) HIGHER EDUCATION OPPORTUNITY ACT.—Section 473(f) of the Higher Education Opportunity Act (Public Law 110–315) is amended by inserting '', except that the amendments made in subsection (e) shall take effect on July 1, 2009'' before the period at the end.

SEC. 407. GENERAL PROVISIONS OF TITLE IV.

(a) DELAYED IMPLEMENTATION OF EZ FAFSA.—Notwithstanding any other provision of law, the Secretary of Education shall be required to carry out the requirements under the following provisions of section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) only for academic year 2010–2011 and subsequent academic years:

(1) In subsection (a) of such section—

(A) subparagraphs (A)(i) and (B) of paragraph (2);

(B) in paragraph (3)—

(i) the second sentence of subparagraph (A);

(ii) clauses (i) and (ii) of subparagraph (B); and

(iii) subparagraph (C);

(C) paragraph (4)(A)(iv); and

(D) paragraph (5)(E).

(2) Subsection (h) of such section.

(b) OTHER AMENDMENTS.—Part G of title IV (20 U.S.C. 1088 et seq.) is amended—

(1) in the matter preceding paragraph (1) of section 481(c) (20 U.S.C. 1088(c)), by striking ''or any State, or private, profit or nonprofit organization'' and inserting ''any State, or any private, for-profit or nonprofit organization,'';

(2) in section 482(b) (20 U.S.C. 1089(b)), by striking ''413D(e), 442(e), or 462(j)'' and inserting ''413D(d), 442(d), or 462(i)'';

(3) in section 483 (20 U.S.C. 1090)—

(A) in subsection (a)(3)(C), by inserting ''that'' after ''except''; and

(B) in subsection (e)(8)(A), by striking ''identify'' and inserting ''determine'';

(4) in section 484 (20 U.S.C. 1091)—

(A) in the matter preceding subparagraph (A) of subsection (a)(4), by striking ''certification,,'' and inserting ''certification,'';

(B) in subsection (b)(1)(B)—

(i) by striking ''have (A)'' and inserting ''have (i)''; and

(ii) by striking ''and (B)'' and inserting ''and (ii)'';

(C) in subsection (f)(1), by striking ''part B'' and all that follows through ''part E'' in each place that the phrase occurs and inserting ''part B, part D, or part E'';

(D) in subsection (h)—

(i) in paragraph (2), by striking ''(h)(4)(A)(i)'' and inserting ''(g)(4)(A)(i)''; and

(ii) in paragraph (3), by striking ''(h)(4)(B)(i)'' and inserting ''(g)(4)(B)(i)''; and

(E) in subsection (n), by striking ''section 1113 of Public Law 97–252'' and inserting ''section 12(f) of the Military Selective Service Act (50 U.S.C. App. 462(f))'';

(5) in section 485 (20 U.S.C. 1092)—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) the matter preceding subparagraph (A), by striking ''also referred to as the Family Educational Rights and Privacy Act of 1974'' and inserting ''commonly known as the 'Family Educational Rights and Privacy Act of 1974' ''; and

(II) in subparagraph (I), by striking ''handicapped students'' and inserting ''students with disabilities'';

(ii) in paragraph (4)(B), by inserting ''during which'' after ''time period''; and

(iii) in the matter preceding subclause (I) of paragraph (7)(B)(iv), by inserting ''education'' after ''higher'';

(B) in subsection (e)(3)(B), by inserting ''during which'' after ''time period'';

(C) in subsection (f)—

(i) in the matter preceding subparagraph (A) of paragraph (1), by inserting ''of'' after ''foreign institution''; and

(ii) in paragraphs (3), (4)(A), (5), and (8)(A), by striking ''under this title'' each place it appears and inserting ''under this title, other than a foreign institution of higher education,'';

(D) in subsection (g)(2), by striking ''subparagraph (G)'' and inserting ''paragraph (1)(G)'';

(E) in subsection (i)—

(i) in paragraph (2), by striking ''eligible institution participating in any program under this title'' and inserting ''institution described in paragraph (1)'';

(ii) in paragraph (3), in the matter preceding subparagraph (A), by striking ''eligible institution participating in any program under this title'' and inserting ''institution described in paragraph (1)''; and

(iii) in paragraph (5)(B), by striking ''the Family Educational Rights and Privacy Act of 1974'' and inserting ''commonly known as the 'Family Educational Rights and Privacy Act of 1974' '';

(F) in subsection (k)(2), by inserting ''section'' before ''484(r)(1)''; and

(G) in the matter preceding clause (i) of subsection (l)(1)(A), by striking ''subparagraph (B)'' and inserting ''paragraph (2)'';

(6) in section 485A (20 U.S.C. 1092a)—

(A) in subsection (a)—

(i) by striking ''or defined in subpart I of part C of title VII of the Public Health Service Act'' and inserting ''or an eligible lender as defined in section 719 of the Public Health Service Act (42 U.S.C. 292o)''; and

(ii) by striking ''under subpart I of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans)'' and inserting ''under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)'';

(B) in subsection (b), by striking ''subpart I of part C of title VII of the Public Health Service Act'' and inserting ''part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)'';

(C) in subsection (e)—

(i) by striking ''Health Education Assistance Loan'' and inserting ''loan under part A

of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)''; and

(ii) in paragraph (2), by striking ''733(e)(3)'' and inserting ''707(e)(3)''; and

(D) in subsection (f)—

(i) in paragraph (1)—

(I) in the second sentence, by striking ''subpart I of part C of title VII of the Public Health Service Act'' and inserting ''part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)''; and

(II) in the fourth sentence, by striking ''728(a)'' and inserting ''710''; and

(ii) in paragraph (2), by striking ''subpart I of part C of title VII of the Public Health Service Act'' and inserting ''part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)'';

(7) in section 485B (20 U.S.C. 1092b)—

(A) in subsection (a)(5), by striking ''))'' and inserting '')''; and

(B) in subsection (d)(3)(D), by striking ''the Family Educational Rights and Privacy Act of 1974'' and inserting ''commonly known as the 'Family Educational Rights and Privacy Act of 1974' '';

(8) in section 487 (20 U.S.C. 1094)—

(A) in subsection (a)(23)(A), by inserting ''of 1993'' after ''Registration Act'';

(B) in subsection (c)(1)—

(i) in subparagraph (A)(i), by striking ''students receives'' and inserting ''students receive'';

(ii) in subparagraph (F), by striking ''paragraph (2)(B)'' and inserting ''paragraph (3)(B)''; and

(iii) in subparagraph (H), by striking ''paragraph (2)(B)'' and inserting ''paragraph (3)(B)'';

(C) in subsection (f)(1), by striking ''496(c)(4)'' and inserting ''496(c)(3)''; and

(D) in subsection (g)(1), by striking ''subsection (f)(2)'' and inserting ''subsection (e)(2)'';

(9) in section 487A(b) (20 U.S.C. 1094a(b))—

(A) in paragraph (1)—

(i) by striking ''Any activities'' and inserting ''Any experimental sites''; and

(ii) by striking ''June 30, 2009'' and inserting ''June 30, 2010''; and

(B) by adding at the end the following:

''(4) DETERMINATION OF SUCCESS.—For the purposes of paragraph (1), the Secretary shall make a determination of success regarding an institution's participation as an experimental site based on—

''(A) the ability of the experimental site to reduce administrative burdens to the institution, as documented in the Secretary's biennial report under paragraph (2), without creating costs for the taxpayer; and

''(B) whether the experimental site has improved the delivery of services to, or otherwise benefitted, students.'';

(10) in section 489(a) (20 U.S.C. 1096(a))—

(A) in the third sentence, by striking ''has agreed to assign under section 463(a)(6)(B)'' and inserting ''has referred under section 463(a)(4)(B)''; and

(B) in the fourth sentence, by striking ''484(h)'' and inserting ''484(g)'';

(11) in section 491(l)(2)(A) (20 U.S.C. 1098(l)(2)(A)), by inserting ''the'' after ''enactment of''; and

(12) in section 492(a) (20 U.S.C. 1098a(a))—

(A) in paragraph (1), by striking ''regulations'' and all that follows through ''The'' and inserting ''regulations for this title. The''; and

(B) in paragraph (2), by striking ''ISSUES'' and all that follows through ''provide'' and inserting ''ISSUES.—The Secretary shall provide''.

SEC. 408. PROGRAM INTEGRITY.

Part H of title IV (20 U.S.C. 1099a et seq.) is amended—

(1) in section 496(a)(6)(G) (20 U.S.C. 1099b(a)(6)(G)), by striking the period at the end and inserting a semicolon; and

(2) in section 498(c)(2) (20 U.S.C. 1099c(c)(2)), by striking ''for profit'' and inserting ''for-profit''.

SEC. 409. WAIVER OF MASTER CALENDAR AND NEGOTIATED RULEMAKING REQUIREMENTS.

Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to the amendments made by this title, or to any regulations promulgated under those amendments.

TITLE V—DEVELOPING INSTITUTIONS

SEC. 501. DEVELOPING INSTITUTIONS.

Section 502(b)(2) (20 U.S.C. 1101a(b)(2)) is amended by striking ''which determination'' and inserting ''which the determination''.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. INTERNATIONAL EDUCATION PROGRAMS.

(a) HIGHER EDUCATION ACT OF 1965.—Title VI (20 U.S.C. 1121 et seq.) is amended—

(1) in section 604(a) (20 U.S.C. 1124(a))—

(A) in the matter preceding subparagraph (A) of paragraph (2), by inserting ''the'' before ''Federal''; and

(B) in paragraph (7)(D), by striking ''institution, combination'' and inserting ''applicant, consortium,''; and

(2) in section 622(a) (20 U.S.C. 1131–1(a)), by inserting a period after ''title''.

(b) HIGHER EDUCATION OPPORTUNITY ACT.—The matter preceding paragraph (1) of section 621 of the Higher Education Opportunity Act (Public Law 110–315) is amended by striking ''Section 631 (20 U.S.C. 1132)'' and inserting ''Section 631(a) (20 U.S.C. 1132(a))''.

TITLE VII—GRADUATE AND POSTSECONDARY IMPROVEMENT

SEC. 701. GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS.

Title VII (20 U.S.C. 1133 et seq.) is amended—

(1) in the matter preceding paragraph (1) of section 721(d) (20 U.S.C. 1136(d)), by striking ''services through'' and all that follows through ''resource centers'' and inserting ''services through pre-college programs, undergraduate prelaw information resource centers'';

(2) in section 723(b)(1)(P) (20 U.S.C. 1136a(b)(1)(P)), by striking ''Sate'' and inserting ''State'';

(3) in section 744(c)(6)(C) (20 U.S.C. 1138c(c)(6)(C)), by inserting ''of the National Academies'' after ''Institute of Medicine'';

(4) in section 760 (20 U.S.C. 1140), by striking paragraph (1) and inserting the following:

''(1) COMPREHENSIVE TRANSITION AND POSTSECONDARY PROGRAM FOR STUDENTS WITH INTELLECTUAL DISABILITIES.—The term 'comprehensive transition and postsecondary program for students with intellectual disabilities' means a degree, certificate, or nondegree program that meets each of the following:

''(A) Is offered by an institution of higher education.

''(B) Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment.

''(C) Includes an advising and curriculum structure.

''(D) Requires students with intellectual disabilities to participate on not less than a half-time basis as determined by the institution, with such participation focusing on academic components, and occurring through 1 or more of the following activities:

''(i) Regular enrollment in credit-bearing courses with nondisabled students offered by the institution.

''(ii) Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit.

''(iii) Enrollment in noncredit-bearing, nondegree courses with nondisabled students.

''(iv) Participation in internships or work-based training in settings with nondisabled individuals.

''(E) Requires students with intellectual disabilities to be socially and academically integrated with non-disabled students to the maximum extent possible.'';

(5) in section 772 (20 U.S.C. 1140l)—

(A) in subsection (a)(2)(A), by striking ''with in'' and inserting ''with''; and

(B) in the matter preceding subclause (I) of subsection (b)(1)(C)(ii), by striking ''subparagraph (C)'' and inserting ''clause (i)'';

(6) in section 781 (20 U.S.C. 1141)—

(A) in subsection (c)(1), by striking ''Service'' each place the term appears and inserting ''Services'';

(B) in the matter preceding paragraph (1) of subsection (e)—

(i) by striking ''(as defined'' and all that follows through ''this Act)'' and inserting ''(as described in section 435(p))''; and

(ii) by striking ''435(j)'' and inserting ''428(b)'';

(C) in subsection (g)(2), by striking ''Service'' and inserting ''Services''; and

(D) in subsection (i)—

(i) in paragraph (1)(D), by striking ''consortia'' and inserting ''consortium''; and

(ii) in paragraph (2)—

(I) in the paragraph heading, by striking ''CONSORTIA'' and inserting ''CONSORTIUM''; and

(II) by striking ''consortia'' each place the term appears and inserting ''consortium''.

TITLE VIII—ADDITIONAL PROGRAMS

SEC. 801. ADDITIONAL PROGRAMS.

Title VIII (20 U.S.C. 1161a et seq.) is amended—

(1) in section 802(d)(2)(D) (20 U.S.C. 1161b(d)(2)(D)), by striking ''regulation'' and inserting ''regulations'';

(2) in section 804(d) (20 U.S.C. 1161d(d))—

(A) in the heading, by striking ''DEFINITION'' and inserting ''DEFINITIONS''; and

(B) by striking paragraph (2) and inserting the following:

''(2) PUBLIC HEALTH SERVICE ACT.—The terms 'accredited' and 'school of nursing' have the meanings given those terms in section 801 of the Public Health Service Act (42 U.S.C. 296).'';

(3) in section 808(a)(1) (20 U.S.C. 1161h(a)(1)), by striking ''the Family Education Rights and Privacy Act of 1974'' and inserting ''section 444 of the General Education Provisions Act (commonly known as the 'Family Educational Rights and Privacy Act of 1974')'';

(4) in section 819(b)(3) (20 U.S.C. 1161j(b)(3)), by inserting a period after ''101(a)'';

(5) in section 820 (20 U.S.C. 1161k)—

(A) in subsection (d)(5), by inserting ''the'' before ''grant'';

(B) in subsection (f)(2), by striking ''subpart'' each place the term appears and inserting ''section''; and

(C) in subsection (h), by striking ''use'' and inserting ''used'';

(6) in section 821 (20 U.S.C. 1161l)—

(A) in subsection (a)(1), by striking ''subsection (g)'' and inserting ''subsection (f)''; and

(B) in subsection (c)(1)(B), by striking ''within'' and inserting ''in'';

(7) in section 824(f)(3) (20 U.S.C. 1161l–3(f)(3))—

(A) in subparagraph (A), by inserting ''a'' after ''submitting''; and

(B) in subparagraph (C), by striking ''pursing'' and inserting ''pursuing'';

(8) in section 825(a) (20 U.S.C. 11611-4(a)), by striking ''the Family Educational Rights and Privacy Act of 1974'' and inserting ''commonly known as the 'Family Educational Rights and Privacy Act of 1974' '';

(9) in section 826(3) (20 U.S.C. 11611-5(3)), by striking ''the Family Educational Rights and Privacy Act of 1974'' and inserting ''commonly known as the 'Family Educational Rights and Privacy Act of 1974' '';

(10) in section 830(a)(1)(B) (20 U.S.C. 1161m(a)(1)(B)), by striking ''of for'' and inserting ''of'';

(11) in section 833(e)(1) (20 U.S.C. 1161n–2(e)(1))—

(A) in the matter preceding subparagraph (A), by striking ''because of'' and inserting ''based on''; and

(B) in subparagraph (D), by striking ''purposes of this section'' and inserting ''purpose of this part'';

(12) in section 841(c)(1) (20 U.S.C. 1161o(c)(1)), by striking ''486A(d)'' and inserting ''486A(b)(1)'';

(13) in section 851(j) (20 U.S.C. 1161p(j)), by inserting ''to be appropriated'' after ''authorized''; and

(14) in section 894(b)(2) (20 U.S.C. 1161y(b)(2)), by striking ''the Family Educational Rights and Privacy Act of 1974'' and inserting ''commonly known as the 'Family Educational Rights and Privacy Act of 1974' ''.

SEC. 802. AMENDMENTS TO OTHER HIGHER EDUCATION ACTS.

(a) HIGHER EDUCATION AMENDMENTS OF 1998.—

(1) INCARCERATED INDIVIDUALS.—Section 821(h) of the Higher Education Amendments of 1998 (20 U.S.C. 1151(h)) is amended to read as follows:

''(h) ALLOCATION OF FUNDS.—

''(1) FISCAL YEAR 2009.—From the funds appropriated pursuant to subsection (i) for fiscal year 2009, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of incarcerated individuals described in paragraphs (1) and (2) of subsection (e) in the State bears to the total number of such individuals in all States.

''(2) FUTURE FISCAL YEARS.—From the funds appropriated pursuant to subsection (i) for each fiscal year after fiscal year 2009, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (e) in such State bears to the total number of such students in all States.''.

(2) UNDERGROUND RAILROAD.—Section 841(c) of the Higher Education Amendments of 1998 (20 U.S.C. 1153(c)) is amended by inserting ''this section'' after ''to carry out''.

(b) EDUCATION OF THE DEAF ACT OF 1986.—Section 203(b)(2) of the Education of the Deaf Act of 1986 (20 U.S.C. 4353(b)(2)) is amended by striking ''and subsections (b) and (c) of section 209.'' and inserting ''and subsections (a), (b), and (c) of section 209.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 23, 2009, at 10 a.m., to hold a hearing entitled ''Confronting Drug Trafficking in West Africa.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on June 23, 2009 at 10 a.m. in room 325 of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 23, 2009, at 2:30 p.m.

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

SUBCOMMITTEE ON AIRLAND

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Subcommittee on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 23, 2009, at 11 a.m.

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

SUBCOMMITTEE ON PERSONNEL

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 23, 2009, at 9:30 a.m.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 23, 2009, at 3:30 p.m.

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

SUBCOMMITTEE ON SEAPOWER

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 23, 2009, at 5:30 p.m.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 23, 2009, at 2 p.m.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, June 23, 2009, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

RECEIVING ARTICLES OF IMPEACHMENT

Mr. BEGICH. Mr. President, I ask unanimous consent that the Secretary inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting articles of impeachment against Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas, agreeable to the notice communicated to the Senate, and at the hour of 10 a.m., Wednesday, June 24, 2009, the Senate will receive the honorable managers on the part of the House of Representatives in order that they may present and exhibit the said articles of impeachment against the said Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas.

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

PRIVILEGES OF THE FLOOR

Mr. BEGICH. Mr. President, I ask unanimous consent that the following counsel and staff of the House of Representatives be permitted the privileges of the floor during Wednesday's proceedings with respect to the trial of the impeachment of Judge Kent: Alan Baron, Phillip Tahtakran, Branden Ritchie, Mark Dubester, Harry Hamelin, Ryan Clough, Elisabeth Stein, Michael Lenn.

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

COMMENDING BUREAU OF LABOR STATISTICS ON 125TH ANNIVERSARY

Mr. BEGICH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 30 submitted earlier today.

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

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 30) commending the Bureau of Labor Statistics on the occasion of its 125th anniversary.

There being no objection, the Senate will proceed to the concurrent resolution.

Mr. BEGICH. Mr. President, 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 (S. Con. Res. 30) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 30

Whereas the Act entitled ''An Act to establish a Bureau of Labor'', approved on June 27, 1884 (23 Stat. 60), established a bureau to ''collect information upon the subject of labor, its relation to capital, the hours of labor, and the earnings of laboring men and women, and the means of promoting their material, social, intellectual, and moral prosperity'';

Whereas the Bureau of Labor Statistics is the principal factfinding agency for the Federal Government in the broad field of labor economics and statistics, and in that role it collects, processes, analyzes, and disseminates essential statistical data to the public, Congress, other Federal agencies, State and local governments, business, and labor;

Whereas the Bureau of Labor Statistics has completed 125 years of service to government, business, labor, and the public by producing indispensable data and special studies on prices, employment and unemployment, productivity, wages and other compensation, economic growth, industrial relations, occupational safety and health, the use of time by the people of the United States, and the economic conditions of States and metropolitan areas;

Whereas many public programs and private transactions are dependent today on the quality of such statistics of the Bureau of Labor Statistics as the unemployment rate and the Consumer Price Index, which play essential roles in the allocation of Federal funds and the adjustment of pensions, welfare payments, private contracts, and other payments to offset the impact of inflation;

Whereas the Bureau of Labor Statistics pursues these responsibilities with absolute integrity and is known for being unfailingly responsive to the need for new types of information and indexes of change;

Whereas the Bureau of Labor Statistics has earned an international reputation as a leader in economic and social statistics;

Whereas the Bureau of Labor Statistics' Internet website, www.bls.gov, began operating in 1995 and meets the public need for timely and accurate information by providing an ever-expanding body of economic data and analysis available to an ever-growing group of online citizens; and

Whereas the Bureau of Labor Statistics has established the highest standards of professional competence and commitment: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends the Bureau of Labor Statistics on the occasion of its 125th anniversary for the exemplary service its administrators and employees provide in collecting and disseminating vital information for the United States.

HONORING THE SUPREME COURT'S OLMSTEAD DECISION

Mr. BEGICH. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 201, submitted earlier today.

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

The bill clerk read as follows:

A resolution (S. Res. 201) recognizing and honoring the tenth anniversary of the United States Supreme Court decision in Olmstead v. L.C., 527 U.S. 581 (1999).

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

Mr. HARKIN. Mr. President, this week marks the 10th anniversary of the landmark decision of the U.S. Supreme Court in Olmstead v. L.C.

In the Olmstead case, two Georgia women brought suit on the grounds that their needless confinement in a mental institution violated the Americans with Disabilities Act—ADA. Even though their treatment professionals concluded that the two could receive the services they required in a community-based setting, the women remained institutionalized.

The plaintiffs' argument—that their institutionalization violated the ADA—was consistent with our findings in the ADA. There we said:

Historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem.

We also said:

Discrimination against individuals with disabilities persists in such critical areas as . . . institutionalization.

This is precisely what had happened to the two women in the Olmstead case, Lois Curtis and Elaine Wilson. Lois had been confined in an institution since the age of 14. Elaine had been living in a locked ward in a psychiatric hospital for more than a year.

Elaine told the district court judge in the case that, confined to the institution, she felt like she was sitting in a little box with no way out. Day after day, she endured the same routine, the same four walls. This is exactly the kind of exclusion and isolation that the ADA was designed to end. So Elaine and Lois brought suit under the ADA.

The Supreme Court agreed with them. The Court ruled that needless segregation is discrimination on two grounds. First, the Court said that needless segregation perpetuates the unwarranted assumption that individuals who are so isolated are incapable or unworthy of participating in community life. And, second, the Court said that confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational achievement, and cultural enrichment.

The Supreme Court said that, under title II of the ADA, States are required to provide community-based services and supports for individuals with disabilities who want to receive their necessary services and supports in non-institutional settings, where such placement is appropriate, and where such community-based placement can be reasonably accommodated.

I mentioned that Lois Curtis and Elaine Wilson were institutionalized for long durations. How did they fare afterwards?

At a hearing in the case, they both spoke of the little things that had changed. They could make new friends and attend family celebrations. They could make Kool-Aid whenever they pleased. They could go outside and take walks.

We all take these kinds of things for granted. But these kinds of ordinary activities are not ordinary if you are in an institution and someone else dictates every aspect of your life.

Since the Olmstead decision 10 years ago this week, we have made progress in giving individuals with disabilities the choice to receive their necessary services and supports in home- and community-based settings, rather than only in an institution.

Many of the provisions in my Money Follows the Person legislation were included in the Deficit Reduction Act of 2005. The goal of Money Follows the Person is that Medicaid money would follow the person with a disability from an institution into the community.

In 2007, the Centers for Medicare & Medicaid Services awarded more than $1.4 billion in Money Follows the Person grants to States, making it possible to transition 37,731 individuals out of institutional settings over the 5-year demonstration period. Thirty States and the District of Columbia were awarded grants to reduce their reliance on institutional care, while developing community-based long-term care opportunities—thus enabling people with disabilities to fully participate in their communities.

But our work is not nearly done. Despite our efforts, the institutional bias remains for low-income individuals with significant disabilities. States still spend about 60 percent of their Medicaid long-term care dollars on institutional services, with only about 40 percent going to home- and community-based services.

Although almost every State has chosen to provide some services under home- and community-based Medicaid waivers, to get these services individuals with disabilities must navigate a maze of programs where there are caps for costs, caps for the number of people served, and limits on the specific disabilities that are covered. In many States, there are also significant waiting lists for these basic services.

Some States have adopted the optional Medicaid benefit of providing personal care services under their Medicaid Program. But this is only 30 States, not everywhere. Services provided in an institutional setting still represent the only guaranteed benefit.

So while more than 2.7 million people in this country are already receiving home- and community-based services at a cost of more than $30 billion each year, there are an estimated 600,000 individuals with significant disabilities on Medicaid who do not have the same choices that were promised by the

Olmstead decision. Their only choice is to live in an institution or to try to get by with the help of family and friends, often at the expense of their health.

To fulfill the promise of Olmstead, Congress must pass the Community Choice Act. This legislation, which I have introduced and continue to champion, would require Medicaid to provide individuals with significant disabilities the choice of receiving community-based services and supports, rather than receiving care in an institution. These services and supports can include assistance with activities of daily living, such as eating, toileting, grooming, dressing, and bathing, as well as other health-related tasks.

We know that, over the long term, providing home- and community-based services is likely to be less expensive than providing those same services in institutions, especially in the case of adults with physical disabilities.

In 2007, 69 percent of Medicaid long-term care spending for older people and adults with physical disabilities went for institutional services. Only six States spent 50 percent or more of their Medicaid long-term care dollars on home- and community-based services for older people and adults with physical disabilities, while half of the States spent less than 25 percent. This disparity continues even though, on average, it is estimated that Medicaid dollars could support nearly three older people and adults with physical disabilities in home- and community-based services for every person in a nursing home.

The majority of individuals who use Medicaid long-term services and supports prefer to live in the community, rather than in institutional settings. Olmstead says they should have that choice.

I think of my nephew Kelly, who became a paraplegic after an accident while serving in U.S. Navy. The Veterans' Administration pays for his personal care services. This allows Kelly to get up in the morning, go to work, operate his own small business, pay taxes, and be a fully contributing member of our economy and society.

The costs of the Community Choice Act would be mostly offset by the benefits of having people with disabilities who are employed, paying taxes, and contributing to the economy.

With appropriate community services and supports, we can fulfill the promise of the Olmstead decision, and we can make good on the great goals of the ADA—equal opportunity, full participation, independent living, and economic self-sufficiency for all people with disabilities.

Mr. BEGICH. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 201

Whereas in the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (referred to in this preamble as the ''ADA''), Congress found that the isolation and segregation of individuals with disabilities is a serious and pervasive form of discrimination;

Whereas the ADA provides the guarantees of equality of opportunity, economic self-sufficiency, full participation, and independent living for individuals with disabilities;

Whereas on June 22, 1999, the United States Supreme Court in *Olmstead* v. *L.C.*, 527 U.S. 581 (1999), held that under the ADA, States must offer qualified individuals with disabilities the choice to receive their long-term services and support in a community-based setting;

Whereas the Supreme Court further recognized in *Olmstead* v. *L.C.* that ''institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life'' and that ''confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.'';

Whereas June 22, 2009, marks the tenth anniversary of the *Olmstead* v. *L.C.* decision;

Whereas, as a result of the Supreme Court decision in *Olmstead* v. *L.C.*, many individuals with disabilities have been able to live in home and community-based settings, rather than institutional settings, and to become productive members of the community;

Whereas despite this success, community-based services and supports remain unavailable for many individuals with significant disabilities;

Whereas eligible families of children with disabilities, working-age adults with disabilities, and older individuals with disabilities should be able to make a choice between entering an institution or receiving long-term services and supports in the most integrated setting appropriate to the individual's needs; and

Whereas families of children with disabilities, working-age adults with disabilities, and older individuals with disabilities should retain the greatest possible control over the services received and, therefore, their own lives and futures, including quality services that maximize independence in the home and community: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the tenth anniversary of the Supreme Court decision in *Olmstead* v. *L.C.*;

(2) salutes all people whose efforts have contributed to the expansion of home and community-based long-term services and supports for individuals with disabilities; and

(3) encourages all people of the United States to recognize the importance of ensuring that home and community-based services are equally available to all qualified individuals with significant disabilities who choose to remain in their home and community.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appoints the following Senators to the Board of Visitors of the U.S. Naval Academy: the Senator from Alaska (Ms. MURKOWSKI), from the Committee on Appropriations, and the Senator from Arizona (Mr. MCCAIN), designated by the Chairman of the Committee on Armed Services.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the Senators from Texas (Mrs. HUTCHISON), from the Committee on Appropriations, and the Senator from North Carolina (Mr. BURR), At Large, to the Board of Visitors of the U.S. Military Academy.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the following Senators to the Board of Visitors of the U.S. Air Force Academy: the Senator from Utah (Mr. BENNETT), from the Committee on Appropriations, and the Senator from Oklahoma (Mr. INHOFE), At Large.

The Chair, on behalf of the Vice President, pursuant to 14 U.S.C. 194, as amended by Public Law 101–595, and upon the recommendation of the Chairman of the Committee on Commerce, Science and Transportation, appoints the following Senators to the Board of Visitors of the U.S. Coast Guard Academy: the Senator from Mississippi (Mr. WICKER), from the Committee on Commerce, Science and Transportation and the Senator from Louisiana (Mr. VITTER), At Large.

The Chair, on behalf of the Vice President, pursuant to Title 46, Section 1295(b), of the U.S. Code, as amended by Public Law 101–595, and upon the recommendation of the Chairman of the Committee on Commerce, Science and Transportation, appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy: the Senator from Georgia (Mr. ISAKSON), from the Committee on Commerce, Science and Transportation, and the Senator from South Carolina (Mr. GRAHAM), At Large.

ORDERS FOR WEDNESDAY, JUNE 24, 2009

Mr. BEGICH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:55 a.m., Wednesday, June 24; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to the impeachment proceeding under the previous order; that upon the conclusion of the impeachment proceedings, the Senate proceed to executive session, with the time until 11 a.m. equally divided and controlled between the two leaders or their designees, and that at 11 a.m. the Senate proceed to vote on the motion to invoke cloture on the nomination of Harold Koh to be Legal Adviser of the Department of State.

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

PROGRAM

Mr. BEGICH. Mr. President, under a previous order, tomorrow at approximately 10 a.m. the Senate will proceed to impeachment proceedings and will conduct a live quorum call. Senators are encouraged to be in the Chamber and seated at their desks at 10 a.m. When a quorum is ascertained, the Senate will receive the House managers, who will deliver the articles of impeachment, and the Senators will be sworn in as a body in order to proceed with the impeachment of Samuel B. Kent, a Judge of the U.S. District Court for the Southern District of Texas. The Senate will then consider two resolutions by consent.

At 11 a.m., the Senate will proceed to the cloture vote on the Koh nomination.

ADJOURNMENT UNTIL 9:55 A.M. TOMORROW

Mr. BEGICH. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

Thereupon, the Senate, at 7:11 p.m., adjourned until Wednesday, June 24, 2009, at 9:55 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF VETERANS AFFAIRS

JOAN M. EVANS, OF OREGON, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AND LEGISLATIVE AFFAIRS), VICE CHRISTINE O. HILL, RESIGNED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE JUDGE ADVOCATE GENERAL OF THE UNITED STATES NAVY AND FOR APPOINTMENT TO THE GRADE INDICATED IN ACCORDANCE WITH TITLE 10, U.S.C., SECTION 5148:

To be vice admiral

REAR ADM. JAMES W. HOUCK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE NAVY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

CAPT. NANETTE M. DERENZI