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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, October 6, 2009, at 12.30 p.m.

Senate

MONDAY, OCTOBER 5, 2009

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

PRAYER

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

Let us pray.

God of grace and glory, help us to look in the right place for wisdom and guidance. Remind our lawmakers that You have promised in James 1:5 to liberally give wisdom to all who request it.

May our Senators begin the quest of speaking Your wisdom so that when the days of opportunity are past, they will go out with joy and be filled with peace. May your wisdom lift them above all bitterness and infuse them with an unshakeable faith in Your providence. Lord, give them a sense of Your purposes and a deep dependance on Your guidance and grace. Help them to attempt something they could not do without Your power.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 5, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

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

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

The legislative clerk proceeded to call the roll.

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 I ask unanimous consent that the order for the quorum call be rescinded.

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business until 4 o'clock today, with Senators during that time able to speak for up to 10 minutes each. Following morning business, the Senate will proceed to the consideration of H.R. 2847, the Commerce-Justice-Science appropriations bill. Today will be for debate only. There will be no amendments today or rollcall votes today.

We have two of our experienced managers, Senator MIKULSKI and Senator SHELBY from Alabama, my dear friend. He and I came to the Senate together. We had our offices next door to one another in the Longworth House Office Building. So we have two extremely fine managers. We hope to move through this bill as quickly as possible. It is a very important piece of legislation. We would have moved more quickly, but Senator MIKULSKI had an accident and was in the hospital and had surgery. But she is up strong and ready to take this on and get on it as quickly as possible.

HEALTH CARE REFORM

Mr. REID. Mr. President, President Reagan once said that the status quo is Latin for ''the mess we're in.'' ''A mess'' is unquestionably an accurate way to describe America's unhealthy health care system. The cost of staying healthy is rising too fast, much faster than families' incomes. Insurance companies are not cutting costs; instead, they are cutting benefits, often at the very time people need them the most. When costs go up as wages go down, when the sick are singled out and robbed of their health care, something has to give. Unfortunately, the ''give'' in this case is hard-working families,

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

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more and more of whom file for bankruptcy and foreclosure every day because they cannot pay their medical bills. The casualties are the patients who put off a needed doctor's visit or do not get a medical procedure they need because it costs too much. The casualties are the people who cannot afford an important prescription, who use an expired prescription, who skip a dose of medicine or even take some pills and split them. You can even buy now, in a drugstore, a little plastic device that has a little blade in it that can cut your pills in half. Especially seniors are buying this now. They do this because they can't afford to stay healthy in the richest country in the world.

Every day, more and more families know what I am talking about. It is not just happening to a handful or a hundred, it is not just threatening thousands. The fact is, one in five Nevadans can't afford health insurance and those who do have it are at great risk of losing it. If we do not act today, 10 years from now health care costs will more than double and the number of Nevadans who can't afford health insurance will nearly double as well. It is the same in the States of Virginia, Massachusetts, Rhode Island, Utah, California, and New Mexico. It does not matter where you are. That is a mess. It is not right. And it is what Democrats have been working so hard to turn around.

You have all heard a lot about our plan over the past months. I hope you know we are fighting to protect what works about the system, fix what does not, and help the middle class get ahead. You know we are fighting to stabilize health insurance for those who have it and help secure it for those who do not. We are fighting to keep the insurance industry honest and protect Medicare. We are fighting to lower costs for every family so every American can afford good, quality care that can never be taken away. And we are doing it all without adding a dime to the deficit.

That plan sounds pretty good to me, but some Republicans do not seem too fond of that plan. We have heard much about what their opposition has been in recent weeks and months. But what you have not heard a lot about is what the Republicans do think is the best way to fix our broken health care system.

Well, here are the basics. Under the Republican plan, insurance companies can deny you coverage when you need it the most, because they want the status quo. That is the status quo. Under the Republican plan, that is the status quo. Insurance companies can deny you coverage because you have high cholesterol, hay fever, or heart disease. They can raise your rates because you are getting older, because your dad had prostate cancer, or simply because you are a woman. That is the status quo. That is what they want. Under the Republican plan, if you do have health insurance, your family has to pay more than $1,000 a year extra to cover all of those who have no health insurance. If that plan sounds familiar, if it sounds like a mess, that is because it is exactly the same mess we are already in. As Ronald Reagan would say, that plan already goes by another name—I repeat—the status quo, the ''mess'' described by President Reagan.

Some might ask: Why would they be supporting the status quo? Why would they refuse to fix such a central part of our economy when it is so clearly and so badly broken?

Paul Krugman has a theory. Krugman, of course, won the Nobel Prize for economics last year. He teaches at Princeton, one of our finest universities, and writes a widely respected column in the New York Times. In his column today, he blames what he called ''the politics of spite.'' He noticed that most Republicans who resist health insurance are fighting it for the sake of fighting it. He observed that while we are fighting for hard-working families, Republicans are busy fighting us. He pointed out that there is no Republican plan to help people, only a plan to hurt the President. These politics are simply out of touch. The majority of Americans know our recovering economy needs health insurance reform now more than ever. The majority of Americans support the idea that health insurance companies should be required to cover every family. And the majority of Americans support creating more competition in the marketplace to drive down the cost of health insurance.

There are those who reflexively and recklessly stand in the way of what we all know needs to be done. Although their megaphone is very loud, they constitute a small minority. This is the minority—this is very hard to comprehend—the same minority who happily pumped one fist when America lost its bid to host the Olympics. They were cheering—we saw it on television—because we lost the Olympics. But they shake the other fist at those who slander us as unpatriotic. This is the same minority who disputes indisputable evidence about how our health care plan will help seniors or disputes undisputable evidence about our President's birth records. This is the same minority who relies on distortions, distractions, and deception to change the subject away from health care rather than debate the facts in good faith. Paul Krugman was right to call it the ''politics of spite,'' and he was right to conclude that such blind malice has no role in the legislative process.

Just as the majority of Americans yearn for the day when they can afford to live a healthy life without fear of living just one accident, one illness, or one pink slip away from losing everything, a majority of Americans also are hopeful about reform. They are optimistic. All of the polls indicate there should be reform.

I had the good fortune of serving in the Senate with Bill Frist. Bill Frist, when he came to the Senate, was a famous transplant surgeon. I can remember him telling me about, as a young surgeon, traveling to places in a small airplane to pick up a heart so he could take it and give it to someone else to give them life. He did that himself, he carried it himself, a very famous surgeon.

In the book I wrote, an autobiography, I talk about Bill Frist. Here on the Senate floor, whenever in a private conversation the subject of health care came up, his eyes lit. He was so into medicine. That was who he was. He was Dr. Bill Frist. He was a Republican. As I have indicated, he was a physician, and a good one. But here is what he said last Friday, a couple of days ago: If he still served in this body, he would vote for health insurance that will soon come to the floor. That is Bill Frist.

Former Senate Republican Leaders Bob Dole and Howard Baker, both famous men, have similarly supported reform—not specific reform, but they say reform should come to be. They didn't have the benefit of seeing this legislation as did Bill Frist.

All three—Frist, Dole, and Baker—have come out because they know it is necessary, it is overdue, and it is right. This is not a partisan issue. All three have recognized that the status quo is not an option. All three have done so in the spirit of service, not a sense of spite. How did they reach this conclusion when so many of the Republican colleagues in this body and elsewhere have not?

I will quote Bill Frist directly, Dr. Frist. He said:

> I would take heat for it. . . . That's what leadership is all about.

I encourage all my Republican colleagues to consider the words of two men on opposite sides of the political spectrum—Krugman, a real progressive, and Frist, a real conservative—who disagree on much about a lot of things. But both know that leadership, courage, and honesty will improve the lives of the people we represent. I encourage them to heed the words of a hero of the Republican Party, Ronald Reagan, who knew that anytime one defends a broken status quo, it only makes a bad situation worse and, in Reagan's words, ''a mess.''

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, the Senate will proceed to a period of morning business until 4 p.m., with Senators permitted to speak for up to 10 minutes each.

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

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

The legislative clerk proceeded to call the roll.

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

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

HEALTH CARE REFORM

Mr. KYL. Mr. President, all eyes are on the Senate now with respect to the health care debate, because the Finance Committee has essentially completed work on the legislation and sometime this week is expected to vote on it, thus making it possible for that bill to come to the Senate floor. The question is, what do people think about the bill we debated and amended in the committee over a period of 2 weeks? Going back over my notes about all of the amendments we proposed and the discussion we had, a couple of things stuck out. First, Republicans have always said we believed it was important to address some of the problems that exist in our current system, problems with insurance and also health care delivery, primarily to bring costs down for all Americans and, in particular, for small businesses that provide insurance to employees, that there were some people who simply couldn't afford to buy insurance and we needed to find a way to help them as well.

Republicans offered scores of amendments. Virtually all of them were rejected. One or two were accepted. We had a lot of good ideas. I am sorry the Democratic majority turned down our ideas. We will offer some of those alternatives when the bill comes to the floor and perhaps hope for a better reception. It isn't as if Republicans didn't have good ideas on how to address the problems. Our ideas were rejected. Instead, we end up with a bill, and I thought: What is the best way to describe the bill? I decided maybe I could identify 10 problems with it as a way of illustrating what is of concern. These may not be the most important 10 problems. There are certainly a lot of other issues, but here are 10 reasons I came up with this morning for the American people to think about and for Senators to think about that would be problems and reasons for us to oppose the bill.

The first has to do with senior citizens who are on Medicare, because the bill cuts $500 billion from Medicare. In July, President Obama spoke at the AARP tele-townhall event and said:

> I think there is a misperception that's been out there that somehow there is any discussion on Capitol Hill about reducing Medicare benefits. Nobody is talking about reducing Medicare benefits.

The problem is, this is not a misconception. We are not only talking about reducing Medicare benefits. That is exactly what the Finance Committee bill does. The Baucus bill will reduce Medicare benefits for millions of seniors to pay for a new health care bureaucracy.

This isn't just my word. Here is the nonpartisan Congressional Budget Office estimating that the Baucus bill would cut Medicare by nearly $500 billion in the following ways: $210.9 billion in cuts to hospitals, nursing homes, home health care, and hospice; $123.5 billion in cuts to private Medicare plans known as Medicare Advantage. Here is what the CBO says about that. They estimate that the extra benefits offered by Medicare Advantage plans, such as preventative screenings, vision and dental care, will drop from $125 per month to only $42 per month under the Baucus bill, a direct reduction in benefits for seniors.

Misconception about reducing benefits? No. Real dollars, $123.5 billion in cuts to Medicare Advantage plans which will, according to CBO, cut benefits for seniors.

There is $22.6 billion in savings supposedly from a Medicare commission which Chairman BAUCUS has noted are executive branch cuts. These will be direct cuts to Medicare. And there is $4.6 billion in cuts to imaging services, wheelchairs, and physician-owned hospitals. Some of these cuts will directly reduce benefits such as those benefits offered by Medicare Advantage plans I mentioned. Others will do so indirectly as, for example, when doctors are paid less or home health care is cut. The bottom line is, it is disingenuous to say that Congress can cut this much spending, $500 billion from Medicare, and not have any detrimental effect on seniors' care. Medicare savings should be used to preserve and strengthen Medicare, not shifted to pay for new entitlement programs.

Reason No. 2, rationing of care. I think at the end of the day, this is probably the most worrisome thing to me. And it is worrisome to a lot of senior and nonsenior citizens who can see their care being rationed under this legislation. The Baucus bill would create a new nonprofit corporation known as the Patient Centered Outcomes Research Institute to conduct what is known as comparative effectiveness research. Billions have been spent in the private sector to identify the best kind of treatment and care available, especially for cutting-edge technologies and treatments for patients' care. For the first time, this bill takes government money to conduct the research, and the net result of it will be to ration care.

The bill, for example, asserts that the Secretary of HHS can use this comparative effectiveness research when making coverage determinations. Coverage determinations are what Medicare is going to cover, what they will pay for; in other words, what kind of treatment one gets to have.

I am quoting now from the bill:

> The secretary would be required to use an iterative and transparent process when using research from the institute in making coverage determinations.

That is what they intend to do.

You will hear people say: Oh, no, that is not our intention. Well, these are the words of the bill. As a matter of fact, there is over $1 billion that was passed in the stimulus bill that is going to be used by a new Federal agency called the Federal Coordinating Council, to use comparative effectiveness research as the basis for rationed care. So you have this nonprofit entity as well as a Federal entity, both of which will use this research for coverage determinations.

As I said, a lot of folks, particularly on the other side, say: Well, we don't support the rationing of care. We are against it too. Yet every single Republican amendment that was offered to make sure this research could not be used to ration care was defeated on party-line votes in the Finance Committee. The Republicans supported the amendments to ensure no rationing. The Democrats opposed all these amendments.

There is another way the bill is very arbitrary and will result in the rationing of care. It arbitrarily singles out 10 percent of the Nation's physicians every single year and cuts their reimbursements under Medicare by 5 percent. What they are doing is saying those doctors who spend more than other doctors—the doctors in the top 10 percent of spending—are going to have their reimbursements cut at the end of the year because, presumably, that spending was unnecessary. Well, how do we know that? Why isn't it the top 5 percent? Why isn't it the top 20 percent? It is a purely arbitrary number.

As I was discussing this on Saturday morning with a prominent physician, he said: The problem is the physicians who will get their reimbursements cut are the real experts to whom all the other physicians refer their toughest patients. I have seen that happen. I go to the doctor, and my physician says: I am not sure about this. I want you to go see a specialist in this area, and he sends me to somebody else. That doctor may prescribe something that costs a little more money, but he knows that is what I need. Well, he is going to get whacked by 5 percent. Obviously, this will result in a race to the bottom, where doctors will be encouraged to underspend one another rather than ensure the appropriate care is delivered to their patients.

Even the Budget Committee chairman, who sits on the Finance Committee, Senator CONRAD, said the provision ''leaves me cold.'' Well, it leaves me cold too. But every Democrat on the Finance Committee voted against my amendment to eliminate this provision.

There was a recent editorial in the Washington Times that illustrates the problem with this. I quote now:

> . . . if a doctor authorizes expensive care, no matter how successfully, the government will punish him by scrimping on what already is a low reimbursement rate for treating Medicare patients. The incentive, therefore, is for the doctor always to provide less

care for his patients for fear of having his payments docked.

That is wrong. The editorial concludes this way:

And because no doctor will know who falls in the top 10 percent until year's end, or what total average costs will break the 10 percent threshold, the pressure will be intense to withhold care, and withhold care again, and then withhold it some more. Or at least to prescribe cheaper care, no matter how much less effective, in order to avoid the penalties.

Withholding care, denial of care, delay of care—it is rationing. So the rationing of care is both direct through the use of the comparative effectiveness research or, in this case, indirect, forcing the doctors, in effect, to do the dirty work for Washington by withholding care.

Here is a third reason: waste, fraud, and abuse. The bill purports to attack waste, fraud, and abuse. But let me tell you about a little provision in the bill, and you tell me whether you think this is subject to abuse. Early Friday morning; that is to say, after midnight Thursday night, the chairman rolled into the bill an amendment that would ''streamline'' enrollment in Medicaid, the Children's Health Insurance Program, and the new premium tax credits program under the bill.

Specifically, this amendment would provide a single application form for all three subsidy programs. The form can be filed online, in person, by mail or telephone. You heard me right: by telephone. How will a State Medicaid agency know if the person is truly eligible for the program, if the person is a U.S. citizen or is even the person he or she purports to be? Poll after poll shows the American people believe fraud, waste, and abuse should be addressed prior to creating new government programs. The Baucus bill exacerbates the fraud, waste, and abuse inherent in Federal public health programs.

A fourth reason: rising health insurance premiums. You all heard that under this legislation, health care is going to cost less. Wrong. Health care is going to cost more. Rather than reducing the cost of premiums, they are going to go up under the bill. Do not take my word for it. Here is the Congressional Budget Office, again, nonpartisan:

Premiums in the new insurance exchanges would tend to be higher than the average premiums in the current-law individual market.

That is according to the Congressional Budget Office. Premiums will be higher than the average of premiums under current law.

The bill provides that every insurance company has to offer at least two particular kinds of insurance and they cannot offer any more than four. The lowest actuarial value they can offer is 65 percent. What does that mean? Individuals will have to buy richer health insurance plans with higher premiums than they would under the current market regardless of their financial or medical circumstances.

The average actuarial value of an individual insurance plan today, according to the Congressional Budget Office, ranges ''from 40 percent to 80 percent, with an average value that is between 55 and 60 percent.'' The bill, remember, mandates that the very lowest is 65 percent, which means it is going to be more than, higher than the value that currently exists for most and for the average. In my State, the average actuarial value for an individual plan is 61 percent. The average value for a high-deductible health plan is 48 percent.

The bottom line is, the Baucus bill not only mandates that you buy insurance, but you have to buy insurance that is going to have a higher premium than the insurance you pay for today. Part of the reason insurance will cost more is because the Baucus bill would require all insurers to cover a minimum set of standardized benefits in addition to the current State-mandated benefits.

The Council for Affordable Health Insurance estimates that current mandated benefits increase the cost of basic health coverage from a little less than 20 percent to perhaps 50 percent. So get ready America, you are going to see your premiums go up under this legislation, not down.

Here is a fifth reason to oppose the bill. Under this legislation, there are penalties on your employer, which will be passed on to you in the form of lower wages. Under the Baucus bill, employers with over 50 employees, that do not offer health insurance to their workers would be required to pay a penalty for each employee who receives a tax credit to purchase coverage through the insurance exchange.

Where does the money come from to pay the penalty? Well, the CBO has warned Congress about so-called free rider proposals. Here is what they say:

Supporters of such surcharges often refer to them as ''free rider'' penalties.

That is what is in the bill.

Although the surcharges would be imposed on the firms, workers in those firms would ultimately bear the burden of those fees, just as they would with pay-or-play requirements.

Continuing to quote:

Employer surcharges tend to be more targeted. . . . Many of those workers are more likely to have earnings at or near the minimum wage, and the size of such surcharges—if based on actual costs imposed on government programs—could be larger per affected worker than the assessments being considered in many play-or-pay requirements.

What that is saying is, when you put a fee on the employer, that fee is passed on to the employees in the form of lower wages or, in some cases, even fewer workers and that it is most likely to more dramatically affect those who have earnings at or near the minimum wage than those at higher wage scales. So you are hurting the very lowest paid workers.

Senator ENZI offered an amendment in the committee that would have required the Secretary of Labor to certify that the bill would not result in lower wages or in an increase in the unemployment rate before the bill could go into effect. You would think that would be a good guarantee that the bill would not have the adverse consequences I indicated.

Well, an interesting thing happened in the committee. The amendment first passed 21 to 0. Everyone thought it was a good idea to guarantee that the bill would not reduce people's wages or result in laid-off workers. Yet early in the hours on Friday—in other words, after midnight Thursday night—the Democrats in the committee changed Senator ENZI's amendment into a mere report to Congress. So after first voting in favor of the amendment to ensure that workers' wages would not be reduced, they then came back late and undid what they had passed earlier. Why would they do that, when the first amendment passed 21 to 0? Because, of course, it is an impossible certification under the bill. The bill will reduce wages—CBO said so—and the Democrats in the committee realized, therefore, they could not stick with that certification and have the bill be effective. So wages will be lost and some jobs will be lost.

Well, here is a sixth reason to oppose the bill: If you like your current insurance, you will not be able to keep it. You have heard the President promise this over and over: If you like your current coverage, you will be able to keep it. No, you will not—not under this bill. This has been proven now time and time again. I think it is one of the reasons the President is so sensitive about this. In fact, in his speech to the Congress, he changed his terminology a little bit. He said: If you like your insurance, we will not do anything to require you to change it. He had to change his terminology because, of course, what he was saying before is absolutely false.

By saying the government will not require you to change your plan, that is technically true. But it is lawyers' words. The problem is, the insurance you have now you will not have anymore because it will not exist anymore. No one will require you to change it. It simply will not be available to you. Why not? Well, there are several different reasons.

For seniors, the Baucus bill cuts billions of dollars from the Medicare Advantage Program. That will force those plans to cut benefits under their plans or to drop coverage altogether.

For those who are privately insured, Senator HATCH offered an amendment that would have required the Secretary of HHS to certify the bill would not cause more than 1 million Americans to lose their current coverage. The amendment failed on a party-line vote. Let me repeat that. The Hatch amendment said: Well, we have to at least certify that no more than 1 million people will lose their coverage under this bill. That cannot be certified because that is not what is going to happen. A lot more than 1 million people

are going to lose their coverage. So his amendment lost on a party-line vote.

It is true the Baucus bill does not require insurers to drop coverage for people who like their current health insurance plans, but the practical effect of the bill will be to cause Americans to lose the coverage they currently enjoy.

For the seniors, by the way, under the Medicare Advantage plan, I quoted the numbers earlier. Let me quote them again. CBO estimates the extra benefits offered by the Medicare Advantage plan—such as preventive screenings, vision, and dental care—will drop from $135 per month to only $42 per month under the Baucus bill. So you are going to lose over $90 worth of care, benefits, that you currently have. No, you are not going to be able to keep the insurance you have today, even if you like it.

Here is a seventh reason: This may seem like a small thing to most people, but the precedent is enormously dangerous in our country. We have all seen what happens when the government takes over part of the economy: insurance companies or the bank bailouts or the automobile companies. When the government takes these things over, they begin to make the decisions; for example, setting the pay of the people who work in those companies. It started out just capping the high executives' pay.

Under this bill, however, insurance companies' pay for all employees would be subject to the Federal regulation. If you pay somebody a certain amount of money, you will not be able to deduct it as a part of the ordinary and business expense that you do today. So it is a way of indirectly capping pay. It would limit the tax deduction for health insurance executives and other highly paid workers at $500,000. By the way, it would not limit the deduction of pharmaceutical companies or hospital industry executives and so on. But it is another example of what happens when Washington takes over another segment of the economy.

Robert Reich, by the way, who is the former Secretary of Labor under the Clinton administration, wrote an op-ed in the Wall Street Journal in which he pointed out that sometimes these relatively high—and $500,000 is, to me, a lot of money—but there are people who are paid a lot more than that in these high-paid industries because of what they are able to do for their particular company, and he warns about the effect of legislation such as this that would effectively cap pay of employees.

Here is another thing—the eighth reason—taxing you through your health insurance plan. This is another one of the sneaky ways in which the bill actually gets at you, but they put the tax first on the insurance company. I told you the Congressional Budget Office said the wage earners would actually pay the penalty imposed on businesses. Well, here is an example of where the Baucus bill imposes a 40-percent excise tax on any health insurance plan that is above $8,000 for a single person and $21,000 for family plans. Who ends up paying the increased tax on the insurance company? Of course, you do. They pass it on to you through higher premiums.

According to the nonpartisan Joint Tax Committee, which provided the Finance Committee with a distributional analysis of this provision, the bulk of this $200 billion tax increase falls on those President Obama promised to protect. Do you remember: ''Nobody under $200,000 is going to pay any new taxes under my bill''? Well, here is what happens in the first year this tax is in place. It raises taxes on 13.8 million tax units; that is, either an individual or a family who files an income tax return; that is, it raises taxes by $13 billion on 13.8 million tax units. Of those 13.8 million tax units—individual filers or families—only 1.2 million will have incomes above $200,000. So about 12.6 million of these tax filers who are under $200,000 in income will pay this tax. Not going to tax anybody under $200,000? Wrong. This means 91 percent of the affected taxpayers will be hit by the premium increase as a result of this tax.

By the way, the average tax increase for those earning under $200,000 is $900. This is every year, by the way. Within 6 years, the number of tax units hit by this tax would nearly triple to almost 40 million individual or family filers, and the tax would collect over $52 billion in that year.

Here is a ninth reason for opposing the bill: taxing the chronically ill. This is an amendment I offered because this is just wrong. As my colleagues know, under the tax law today, if you are so unfortunate as to be hit by a huge medical bill in any given year, and it exceeds 7.5 percent of your gross adjusted income on your income tax form, then you get to take a deduction for any amount above 7.5 percent of your income. The reason for that is because we don't want anyone in this country to have to suffer unnecessarily or out of proportion simply because of an accident, in effect. This is literally the lightning strikes situation. Most people would not have medical bills exceeding 7.5 percent of their adjusted gross income, but the few who do have been stricken enormously hard. They don't deserve it. In fact, the Internal Revenue Service actually treats this as an involuntary expense.

Under the IRS Code, there are few things that happen to you by pure luck of the draw, as it were. Most of the IRS Code applies to you based on decisions you made: You invested and lost money or you invested and made money and you get taxed on it as a result of the decision you made. You bought a house and you have a mortgage deduction, you know how much that is, you are taxed on a decision you made.

This, you had nothing to do with it; you just got sick. So your expenses are enormous compared to your income. We have always said in that case: We don't want that to hurt you; we are going to make sure you don't pay more than a certain amount in your taxes. Anything above 7.5 percent you get to deduct.

Under the Baucus bill, that 7.5 percent goes up to 10 percent, so now you are going to have to eat 10 percent of this catastrophic cost before you can even get to the point where you can have a tax deduction. Yet, as I quote the Congressional Research Service, ''the deduction can ease the financial burden imposed by costly medical expenses.'' For the most part, the Federal Tax Code regards these expenses as involuntary expenses that reduce a Federal taxpayer's ability to pay taxes by absorbing a substantial part of income.

The Joint Tax Committee has estimated that increasing the threshold to 10 percent would increase taxes by $15 billion over 10 years. Who are these unfortunate taxpayers? Are they rich people? No. Twenty-one percent of them who claim this deduction earn under $40,000, or less than 200 percent of poverty. So almost one-fourth of the people who take advantage of this are literally—they are at 200 percent of poverty. They are making $40,000 a year. Those are exactly the kinds of people you want to be able to take advantage of a tax provision like this. They get killed when they have an expense that big, and 5.8 million taxpayers or 87 percent who claim this deduction earn under $100,000, and that is not wealthy by any means. Mom and dad are working. Together they earn, let's say, $90,000. Well, 87 percent of the people who claim this deduction are in that category. Those are people we should be helping by not having them pay quite as much in taxes, but under the bill we make it harder for them. We raise the threshold from 7.5 to 10 percent.

I wanted to actually reduce it to 5 percent to help people with their health care costs. Isn't the whole point of this bill to reduce people's health care expenditures? Isn't that the whole idea? No. We are not going to reduce them; we are not even going to leave them the same. We are going to raise them.

That brings up the tenth and final reason: taxing middle-class families. Under current law, employees can make tax-free contributions for medically necessary goods and services to pay out-of-pocket expenses. We would assume that to be the case. Although there is no legal limitation, employers generally establish a $5,000 limit that they provide to their workers.

Senator BAUCUS is proposing to limit the contributions to $2,500 a year, and the Joint Tax Committee estimates that this limit would raise $15 billion over 10 years.

Now, why are we doing this? Is it good tax policy? No. We are doing it because we have to raise revenue. You see, the Democrats, who proposed this amendment, said at the very outset:

We are going to make sure it is ''revenue neutral.'' What does revenue neutral mean? When you are proposing to spend $800 billion, $900 billion, $1 trillion in order to make it revenue neutral, you have to come up with $800 billion, $900 billion, or $1 trillion in new taxes or revenue or savings in order to offset the cost of that. So they have to raise money by a variety of taxes—I have mentioned a couple of them—or by penalties in ways that help them to get to this $800 million, $900 million, or $1 trillion.

Well, here is another one of the taxes. We limit the contribution limit to $2,500 a year. That way the Federal Government will bring in $15 billion more in revenue.

Who takes advantage of this? Well, the 35 million people who use these flexible spending accounts spend 43 percent on hospital admissions and physician visits, 26 percent to purchase prescription and over-the-counter drugs to manage chronic diseases, 21 percent for dental, and 10 percent for vision. These are medical expenses that help make people healthier or prevent them from getting sicker. Isn't that what we want to be promoting, rather than hurting?

Americans with chronic conditions spend nearly $4,400 a year in out-of-pocket medical expenses for ailments such as diabetes and autism. Why shouldn't we be helping them by allowing their employers to put money into these flexible spending accounts for them to offset against their medical expenses?

Well, maybe this is just for the rich. No. There again, wrong. The median income for a policyholder utilizing a flexible spending account is $55,000—hardly the rich. So, once again, we tax middle-class families in order to raise money to pay for the expense of this legislation.

These are just 10 reasons. I could keep going. There are dozens and dozens of reasons to oppose this legislation, but just start with these 10:

No. 1, $500 billion in Medicare cuts that is going to result in less care for America's seniors—benefit cuts.

No. 2, rationing of care, both directly and indirectly, through this comparative effectiveness research and through other means that force the physicians, in effect, to provide less care if they want to be paid. More fraud, waste, and abuse. We thought we were going to actually save money from waste, fraud, and abuse. No. We are going to do things such as let people register by telephone when we are not going to be able to verify their eligibility for subsidies under this program.

Rising health insurance premiums: The Congressional Budget Office says the increase in the insurance costs will be passed on to the premium holders, so our insurance premiums go up, not down.

Taxes on employers which, again, according to the people who know best—nonpartisan—reduce employees' wages.

If you like your current coverage, you would not be able to keep it. That is a reason to oppose this legislation. If you like your current coverage, you ought to be able to get to keep it.

No. 7, unwarranted government intrusion. I just cited the example of the capping of pay, but there are so many other situations in which this tangled web of government regulations will virtually create government-run health care in this country, with or without a government-run insurance plan or the so-called public option.

No. 8, taxing you through your health insurance program. Here, again, they impose a tax on the insurance company because insurance companies are bad. Well, insurance companies are bad until you want them to pay for your health care. Then they are OK, I guess. In any event, the insurance company has to pass it on to you, so your premiums go up. That is what the experts say will happen.

Taxing the chronically ill: Why should we not allow people to deduct from their income taxes the expenses of these catastrophic events in their life that all of us—none of us want these things to happen to us, and we should at least be able to deduct part of these expenses in our income taxes.

Finally, taxing middle-class families through the inability to take advantage of what their employers would otherwise provide by way of flexible spending accounts so they could actually have money to spend on chronic diseases such as diabetes—just one that I mentioned.

The whole exercise is we are going to make health care costs go down, we are going to reduce premiums, and we are going to recognize that people have too hard a time coping with these issues in today's society. We only make it worse if we adopt the Baucus bill because it will raise insurance premiums, it will lower wages, it will increase taxes, and it will reduce the care people get. How is that for a deal? Only something offered in Washington, DC, could be that bad a deal.

That is what is coming down the pike. In a couple of weeks, that bill is going to be—actually, it would not even be that bill; it will be a worse bill. I have described what many say is the best it is going to get, the bill that came out of the Finance Committee. It is only going to get worse from here because this bill is going to be combined—not by Republicans but by Democrats—behind closed doors with the bill that came out of the HELP Committee which, if anything could be worse, is. So somewhere in between this bill and that bill, that is what we are going to have on the Senate floor. It is a bad deal for the American people.

One final point. I see my friend, the Senator from Tennessee, Mr. ALEXANDER, coming to the floor. He has been saying something over and over and over again that bears repeating. I will tell Senator ALEXANDER, I was in church yesterday, and I don't know how many people told me exactly this: Read the bill and find out how much it costs. If we do that, and if we tell our constituents how much it costs and what is in the bill, I predict a lot of my colleagues are going to say: Thanks but no thanks; my constituents really don't want this bill.

So in addition to all of the other things I have said, maybe I should have started with the proposition: Read the bill and find out how much it costs. I suspect my friend from Tennessee might just mention that.

Thank you, Mr. President.

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

Mr. ALEXANDER. Mr. President, I wish to thank the Senator from Arizona for his thoughtful comments and for his late nights on the Finance Committee on the health care bill. He is exactly correct. I don't know where in the United States you could go and somebody wouldn't say: You should read the bill, No. 1; and you should know what it costs, No. 2, before you start voting on it. That is one of the handful of things in American life I don't think requires any explanation. But if it requires any, the people in Arizona are going to be asking Senator KYL, just as they do me in Tennessee: What is this shifting of Medicaid costs to the States, and how much is it going to cost us? Our Governor in Tennessee says it will put the State budget in the tank and damage our colleges and universities. We ought to read the bill and know what it costs.

What about these Medicare cuts? We will wait to read the bill and see how much they are, but what we hear is they are a half trillion dollars, and not just in cuts on Medicare, but it is cutting Medicare for seniors and spending it on a new program. As the Senator from Kansas said the other day, it is like writing a check on an overdrawn bank account and buying a big new car with it, and then new taxes.

So I remember when in the HELP Committee we all were working on a bill, and it went right through with the Democratic majority, but when the American people began to read it, there began to be some problems. So I am very hopeful that we will do in the Senate as 99.8 percent of the American people expect us to do: Read the bill; know what it costs. When we see the Medicaid mandates that require new State taxes and the Medicare cuts for seniors that will be spent on other programs and new taxes, then that might change the picture.

Mr. President how much time do we have left on our side?

The ACTING PRESIDENT pro tempore. The time is not equally divided. Senators are permitted to speak for up to 10 minutes. The time is not equally divided, so we are just in a period of morning business until 4 o'clock.

Mr. ALEXANDER. Thank you very much.

ENERGY REFORM

Mr. ALEXANDER. Mr. President, I would like to change the subject. I wish to talk a little bit on the perils of energy sprawl. Right behind the health bill may come an energy or climate change bill. There has been a lot of discussion about that. I would like to talk about it in a new and different way.

I just went over to an organization called Resources for the Future that is run by former Congressman Phil Sharp, a group that has done a lot of good work in the conservation area, most recently in coordinating the Outdoors Resource Review Group's recommendations that included permanent funding for the Land and Water Conservation Fund.

There were about 200 conservationists there. I wish to talk to my colleagues a little bit about the message I shared with them. I began with them in this way: As many Americans did last week, I spent a number of hours watching Ken Burns' film on our national parks. I am also reading Douglas Brinkley's book about Theodore Roosevelt, called ''The Wilderness Warrior: Theodore Roosevelt and the Crusade for America.'' I had a few minutes to visit Douglas Brinkley, who was in Washington, DC. Doing this reminded me that the men and women we honor most in the conservation movement, and who founded many of our most important organizations, were not always so honored when they spoke up. Many who spent the last century protecting our landscapes, our air and our water and our habitats were regarded as trivial, eccentric or even went unnoticed.

John Muir, founder of the Sierra Club, was an obscure hermit when he began to preach nature like an apostle. To some, President Teddy Roosevelt must have seemed a little daffy when he declared he would protect pelicans and warned a country, enamored with Manifest Destiny, that we should keep nature unmarred. President Lyndon Johnson used to make jokes about Lady Bird Johnson running around the White House with Laurance Rockefeller protecting flowers, as he would say. Today, we honor those men and women for having had the wisdom and courage to recognize that preserving our natural heritage is essential to the American character. Italy may have its art, India may have its Taj Mahal, but we have the Great American Outdoors.

That is why a recent paper by the Nature Conservancy, a scientific paper, titled ''Energy Sprawl or Energy Efficiency: Climate Policy Impacts on Natural Habitat for the United States of America,'' will one day, I believe, occupy a place among the pioneering actions we honor in the conservation movement. The paper warns, in the next 20 years, new energy production, especially biofuels and wind power, will consume a landmass larger than the State of Nebraska. This so-called ''energy sprawl,'' as the authors termed it, will be the result of government cap and trade and renewable mandate proposals designed to deal with climate change. The paper should serve as a ''Paul Revere ride'' for the coming renewable energy sprawl. There are negative consequences from producing energy from the Sun, the wind, and the Earth, just as there are positive effects. Unless we are as wise in our response to this as the authors were in their analysis, our Nation runs the risk of damaging the environment in the name of saving the environment.

The first insight of the Nature Conservancy paper is in describing the sheer size of the sprawl. The second insight is in carefully estimating the widely varying amounts of land consumed by different kinds of energy production. Finally, the paper suggests four ways to reduce carbon emissions, while minimizing the side effects of energy sprawl on the landscape and wildlife habitat. The first recommendation is energy conservation. Second is generating electricity on already-developed sites, such as when solar panels are put on rooftops or when a chemical company uses byproducts from its production processes to make heat and power. The third recommendation is to make carbon regulation flexible enough to allow for coal plants that recapture carbon or nuclear power plants that produce no carbon or for international offsets. Fourth, the paper suggests careful site selection.

This makes me think of my own experience as Governor of Tennessee 25 years ago. The Presiding Officer was a very successful Governor of our neighboring Commonwealth of Virginia. Twenty-five years ago, our State banned new billboards and junkyards on a highway over which 2 million visitors travel each year to the Great Smoky Mountain National Park. Then, that decision attracted very little attention. Today, that decision helps to preserve one of the most attractive gateways to any national park. It is hard to imagine what that road would be like today if we hadn't made that decision 25 years ago. We know that if the billboards had gone up then, they would be impossible to take down today. It would be the same with wind turbines in the foothills of the Smokies or along the Blue Ridge Parkway, with wind turbines, solar thermal plants, and other new forms of energy production—once they go up, it would be hard to take them down.

My purpose today, with Resources for the Future and with the conservation groups, was to challenge those organizations who have traditionally protected our landscapes, air and water and wildlife habitat to do the same for the threat of energy sprawl. I asked for them to suggest to us in the Senate, Members of the House, and others in government what are the most appropriate sites for low-carbon or carbon-free energy production. Second, I asked the conservationists to do something that gives many of them a stomachache whenever it is mentioned—to rethink nuclear power. Because, as the Nature Conservancy's paper details—while not endorsing nuclear—in several ways nuclear power produces the largest amounts of carbon-free electricity with the least impact.

I learned a long time ago it helps an audience to know where its speaker is coming from so I reminded them that I grew up hiking and camping in the great Smoky Mountains National Park, and I still live 2 miles from the park boundary today. I reminded them that, as a Senator, I have fought and still fight for strict emission standards for sulfur, nitrogen, and mercury, because too many of us still breathe polluted air. I have introduced legislation to cap carbon from coal plants because I believe human production of carbon contributes to global warming. I have helped to create 10,000 acres of conservation easements adjacent to the Smokies because it preserves the views and the wildlife needs the space. I drive one of the first hybrid plug-in electric cars because I believe electrifying our cars and trucks is the quickest way to clean the air, keep fuel prices down, reduce foreign oil use, and help deal with climate change. I object to 50-story wind turbines along the Appalachian Trail for the same reason I am the cosponsor of legislation to end the coal mining practice called mountaintop removal, not because I am opposed to coal plants or wind power in appropriate places but because I want to save our mountaintops.

Let me offer a few examples to give a clearer picture of what this coming energy sprawl may look like. As the Nature Conservancy paper notes, most new renewable electricity production will come from wind power, which provides about 1.5 percent of our country's electricity today. Hydroelectric dams produce about 7 percent, and some of them are being dismantled. Solar and all other forms of renewable electricity produce about another 1 percent. President Bush first suggested that wind power could grow from 1.5 percent today to 20 percent by 2030, and President Obama has set out enthusiastically to get this done. In fact, the combination of Presidential rhetoric, taxpayer subsidies and mandates have very nearly turned our national electricity policy into a national windmill policy.

To produce 20 percent of America's electricity from wind turbines would require erecting 186,000 1.5 megawatt wind turbines, covering an area the size of West Virginia. According to the American Wind Energy Association, 1 megawatt of wind requires 60 acres of land; in other words, that is a 1.5-megawatt wind turbine every 90 acres. These are not your grandmother's windmills. They are 50 stories high. If you are a sports fan, they are three times as tall as the skyboxes at the University of Tennessee football stadium. The turbines themselves are the length of a football field. They are noisy, and you can see their flashing lights for up to 20 miles. In the Eastern United States,

such as in Tennessee and Virginia, where the wind blows less, turbines work best along scenic ridge tops and coastlines.

The National Academy of Sciences says that up to 19,000 miles of new high-voltage transmission lines would be needed to carry electricity from 186,000 wind turbines in remote areas to and through population centers.

So many wind turbines can create real threats to wildlife. The Governor of Wyoming has expressed concern about protecting the sage grouse's diminishing population in his State as a result of possible habitat destruction from wind farms. The American Bird Conservancy estimates that each wind turbine in this country may kill as many as seven or eight birds each year. Multiply that by 186,000, and you can predict the annual death of close to 1.4 million birds each year. Then there are the solar thermal plants, which use big mirrors to heat a fluid and which could spread over many square miles. Secretary of the Interior Ken Salazar recently announced plans to cover 1,000 square miles of federally owned land in Nevada, Arizona, California, Colorado, New Mexico, and Utah with such solar collectors to generate electricity. DIANNE FEINSTEIN, the senior Senator from California, who has spent most of her career trying to make the Mojave Desert a national monument, strongly objected to a solar thermal plant in the desert on Federal land just outside the Mojave National Preserve that would have covered an area 3 miles by 3 miles. Plans for the plant were recently canceled.

The only wind farm in the Southeastern United States is on the 3,300-foot-tall Buffalo Mountain in eastern Tennessee, not far from my hometown. The wind there blows less than 20 percent of the time, making the project a commercial failure. Because of the unavailability of wind power, renewable energy advocates suggest that we southeasterners use biomass, a sort of controlled bonfire that burns wood products to make electricity. Biomass has promise, to a point. Paper mills can burn wood byproducts to make energy. Clearing forests of dead wood and then burning it not only produces energy but can help to avoid forest fires. According to the Conservancy's paper, biofuels and biomass burning of energy crops for electricity take the most space per unit of energy produced. For example, the Southern Company is building a new 100-megawatt biomass plant in Georgia. Southern estimates it will keep 180 trucks a day busy hauling about 1 million tons of wood a year to the plants. One hundred megawatts, the size of that plant, is less than one-tenth the production of a nuclear plant, which will fit on 1 square mile. To produce the same amount of energy as one nuclear plant would require continuously foresting an area one-third larger than the 550,000-acre great Smoky Mountain National Park. You can make your own estimate of the number of trucks it would take to haul that much wood.

That is the second important insight of the Nature Conservancy report: a careful estimate of the widely different amounts of land each energy-producing technique requires. The gold standard for land usage is nuclear power. You can get a million megawatt hours of electricity a year—that is the standard unit the authors chose—per square mile, using nuclear power. The second most compact form of energy is geothermal energy. To generate the same amount of power, coal requires 4 square miles, taking into account all the land required for mining, extraction, and waste disposal. Solar thermal takes 6. Natural gas takes 7. Petroleum takes 17. Photovoltaic cells that turn sunlight into electricity requires 14 square miles for the same unit of power. Wind is even more, taking 28 square miles to produce the same unit of electricity. That doesn't include lands consumed by the up to 19,000 miles of new transmission lines.

These differences in land use are pronounced, even though the Nature Conservancy paper's analysis is conservative. The authors include upstream inputs and waste disposal as part of their estimate of an energy producer's footprint. They add uranium mining and Yucca Mountain's 220 square miles to the area our 104 nuclear reactors actually occupy. If one were to consider only each energy plant's footprint, to produce 20 percent of U.S. electricity would take 100 nuclear reactors on 100 square miles; or, to visualize it a different way, 186,000 wind turbines on 25,000 square miles.

Visualize the difference this way. Thru hikers regularly travel the 2,178 miles from Springer Mountain, GA, up through Tennessee and Virginia to Mount Katahdin, ME. A row of 50-story wind turbines along the 2,178-mile Appalachian Trail would produce the same amount of electricity produced by four nuclear reactors on 4 square miles.

Because of all these wide differences, policymakers have the opportunity to choose carefully among the various forms of producing carbon-free electricity, as well as to think about where such energy production should go and should not go.

There are four ways that The Nature Conservancy suggests we approach these decisions:

First, focus on energy conservation. That is hard to argue with, and that is their preferred alternative to energy sprawl. It is hard to see how anyone could disagree. To cite one example, my home State of Tennessee leads the Nation in residential per-person electricity use. If Tennesseans simply used electricity at the national average, the amount of electricity we would save each year would equal two nuclear plants. Oak Ridge National Laboratory scientists have said that fuel efficiency standards have been the single most important step our country has taken to reduce carbon emissions.

The second recommendation for energy sprawl is, in scientific terms, end-use generation of electricity which already occurs on already-developed sites. The example is cogeneration that occurs at a paper factory, for example, that uses waste product to produce electricity and heat to run its facility. A more familiar and promising example is solar power on rooftops. In other words, since rooftops already exist, covering them with hundreds of square miles of solar panels would create no additional sprawl. There are still obstacles to the widespread use of solar panels. In the Southeast, solar still costs four to five times what the Tennessee Valley Authority pays on average for other electricity. There is the obstacle of aesthetics. But companies are now producing solar film embedded with attractive roofing materials, although that costs more. And there is still the problem that solar power is only available when the Sun shines. Like wind, it cannot be stored in large quantities. But unlike wind, which often blows at night when we have plenty of spare electricity, the Sun shines when most people are at their peak power use. As former Energy Secretary James Schlesinger wrote recently in the Washington Post, because of their intermittence, wind and solar systems have to be backed up by other forms of electricity generation, which adds to their cost and land usage.

The third recommendation is to make carbon regulation flexible, allowing for carbon recapture at coal plants, for nuclear power, and for international offsets. So far, the sponsors of climate and energy bills in the Congress have not heeded this advice, I am sorry to say. In fact, both the Waxman-Markey bill in the House and the Bingaman Energy bill in the Senate contain very narrowly defined renewable electricity mandates. Instead of allowing States to choose their methods of producing the required amount of carbon-free electricity, the legislation tilts heavily toward requiring wind power. For example, the legislation allows existing and new wind turbines within the renewable mandate, but only new hydroelectric power. It does not count nuclear power, which is carbon free, or municipal solid waste or landfill gas as renewable.

In the same way, 75 percent of the so-called renewable electricity subsidies enacted since 1978 have gone to wind developers. A study by the Energy Information Administration shows that wind gets a subsidy of 31 times that of all other renewables combined. These policies have created a heavy bias toward the form of renewable electricity—wind power—that could consume our treasured mountaintops and be very destructive to wildlife. A national policy that encourages wind power in the Southeast, such as Tennessee or Virginia, where the wind barely blows, makes about as much sense as mandating new hydroelectric dams in the Western desert where there is no water.

It is my opinion that if we are truly seeking to reduce our carbon output, the policy that would create the least energy sprawl would be a carbon-free electricity standard allowing for the maximum flexibility for those renewable electricity techniques that consume less land and require fewer transmission lines.

Finally, to deal with energy sprawl, The Nature Conservancy suggests paying attention to site selection. This is where the conservationists can be a big help to the Senators. Those who have spent their time protecting treasured landscapes and protecting wildlife could help us ask the right questions and know the right answers. For example, should energy projects be placed in national parks or national forests? If so, which forests and which energy projects? Should there be generous taxpayer subsidies for renewable electricity projects within 20 miles of the Grand Tetons or along the Appalachian Trail? What about the large amounts of water needed for solar thermal plants or for nuclear plants? Should turbines be concentrated in shallow waters 20 miles or more offshore where they cannot be seen from the coast? And should transmission lines run under water? Couldn't wind turbines be located in the center of Lake Michigan where the wind blows more strongly instead of along its shoreline where people can see them? Should there be renewable energy zones, such as the solar zones Secretary Salazar is planning where most new projects could be placed and where the most appropriate locations for those zones and those transmission lines could be picked?

In a recent op-ed in the New York Times, the Massachusetts secretary of energy and environmental affairs asked this question: Wouldn't it make a lot more sense to place wind turbines offshore in the Atlantic and run transmission lines underwater than to build new transmissions lines to carry wind power from the Great Plains to Boston? Should the subsidies for cellulosic ethanol be larger than those for corn ethanol? Or should there be no subsidies at all? And should there be a special effort to encourage conservation easements on private lands that protect treasured viewscapes and habitats?

These are the questions that the American people and the conservation groups that have traditionally protected our landscapes and our habitats could help us answer properly.

According to the Wall Street Journal, on August 13, ExxonMobil pleaded guilty in Federal court to killing 85 birds that had come into contact with crude oil or other pollutants in uncovered tanks of wastewater facilities on its properties. The birds were protected by the Migratory Bird Treaty Act which dates back to 1918. The company paid $600,000 in fines and fees for killing those 85 birds.

Should the migratory bird law be enforced against developers of other energy projects—for example, renewable electricity and transmission lines? One wind farm near Oakland, CA, estimates that its turbines kill 80 golden eagles a year. The American Bird Conservancy estimates the 25,000 wind turbines in the United States kill somewhere between 75,000 and 275,000 birds a year. ''Somebody is getting a get-out-of-jail card free,'' Michael Fry of the Bird Conservancy told the Journal. And what would be the fine for the almost 1.4 million birds that 186,000 turbines might kill? For those who think birds may not be as important as some other subjects, read Douglas Brinkley's book about Teddy Roosevelt. Almost all of his wilderness activities started with his interest in birds. According to Mr. Brinkley, the largest spectator sport in America, even ahead of NASCAR, is bird watching.

These statistics raise the question of whether there ought to be some kind of parity among all energy companies in the application of laws and policies. For example, oil and gas companies receive taxpayer subsidies, but they bid to lease and drill on Federal land and waters and then they pay a royalty for the privilege. Should taxpayer-subsidized developers of renewable electricity projects also be required to pay a royalty for the privilege of producing electricity on Federal lands and waters? And if so, could this be a source of permanent funding for the Land and Water Conservation Fund or other conservation projects on the theory that if the law allows an environmental burden, it ought to require an environmental benefit?

Based on estimates from the Joint Committee on Taxation and the Congressional Budget Office, taxpayers will pay wind developers a total of $29 billion in Federal subsidies over the next 10 years to increase wind power production from 1.5 to 4 percent of our total electricity.

There are an estimated 500,000 abandoned mines in our Nation—47,000 in California alone. To date, Congress has allocated a total of about $4 billion for their cleanup, and the end of the cleanup is nowhere in sight. Would it not be wise before the energy sprawl occurs to require bonds on Federal lands for the removal of energy equipment that is abandoned or not used anymore? Wind turbines wear out in 20 or 25 years. Solar thermal farms can cover hundreds of acres. Policy subsidies and prices can change.

In Germany, for example, a prominent maker of solar equipment suggested cutting the government subsidy for solar equipment because it is permanently raising the prices of German-made products, and Germans are buying cheaper panels made in China. In other words, the Germans are subsidizing Chinese manufacturing.

So if the large U.S. subsidies for wind power were to disappear, as was promised when they were created, and this led to the abandoning of some renewable projects, it might be a good idea if someone were required to take away any abandoned equipment.

Which brought me to my last point: asking conservationists, especially in this country, to rethink nuclear power.

In our country, fears about proliferation and waste and disposal have stymied the ''atoms for peace'' dream for large amounts of low-cost, clean, reliable energy from nuclear power. Twelve States even have moratoria against building new nuclear plants. Still, the 104 U.S. reactors built between 1970 and 1990 produce 19 percent of America's electricity and, as I have said, 70 percent of our carbon-free electricity.

I believe that what Americans should fear most about nuclear power is this: The rest of the world will use it to create low-cost, carbon-free electricity while we who invented it will not. That would send our jobs overseas looking for cheap energy, and it would deprive us of the technology most likely to produce large amounts of carbon-free electricity to deal with climate change and to do it in a way least likely to harm the landscape and wildlife habitat.

Look at what the rest of the world is doing. Of the top five greenhouse gas emitters, who together produce 55 percent of all the carbon in the world, only the United States has no new nuclear plants under construction. China, the world's largest carbon emitter, recently upped its goal for new nuclear reactors to 132. Russia, the No. 3 emitter, plans two new reactors every year until 2030. Of the next two emitters, India has six reactors under construction and 10 more planned. Japan already has 55 reactors and gets 35 percent of its electricity from nuclear. It has two under construction and plans for 10 more by 2018.

According to the International Atomic Energy Agency, there are 53 reactors worldwide under construction in 11 countries, mostly in Asia and not one in the United States. South Korea gets nearly 40 percent of its electricity from nuclear and plans another eight reactors by 2015. Taiwan gets 18 percent of its power from nuclear and is building two new reactors.

In the West, France—we never like to give France credit for outdoing us in anything—but France gets 80 percent of its electricity from nuclear and, as a result, has among the lowest electricity rates and carbon emissions in Western Europe, behind Sweden and Switzerland, both of which are half nuclear. Great Britain has hired the French electric company EDF to help build reactors. Italy has announced it will go back to nuclear.

Where does that leave the United States? We still know how to run reactors better than anyone else, we just don't build them anymore. Our fleet of plants is up and running 90 percent of the time. No one does that well except us. We have 17 applications for new reactors pending before the Nuclear Regulatory Commission, but we have not

started construction on any new nuclear plant in 30 years in the United States.

The 104 we currently have in operation will begin to grow too old to operate in 20 years. That is why I believe the United States should build 100 new nuclear plants in 20 years. All 40 Republican Senators support that goal, and a number of Democratic Senators also are strong supporters of nuclear power.

Building 100 plants in 20 years would bring our nuclear-produced electricity to more than 40 percent of our total generation and it would all be carbon free. Add another 10 percent for hydroelectric dams—that is carbon free; 7 or 8 percent for wind and solar, now about 2.5 percent—that is carbon free; 25 percent for natural gas—that is low carbon; and you begin to get a very clean and low-cost electricity policy.

According to the National Academy of Sciences, construction costs for 100 nuclear plants are about the same as they would be for 186,000 wind turbines. New reactors could be located mostly on sites with existing reactors. There would be little need for new transmission lines. Taxpayer subsidies for nuclear would be one-tenth what taxpayers would pay wind developers over 10 years. And for so-called green jobs, building 100 nuclear plants would provide 4 times as many construction jobs as building 186,000 wind turbines. And, of course, nuclear is a base load source of power operating 90 percent of the time—the kind of reliable power a country like the United States, which uses 25 percent of the energy in the world, must have. Wind and solar are useful supplements, but they are only available, on average, about one-third of the time, and they can't be stored in large amounts.

What about the lingering fears of nuclear? Well, the Obama administration Energy Secretary, Dr. Steven Chu, the Nobel Prize-winning physicist, says nuclear plants are safe and he wouldn't mind living near one. That view is echoed by thousands of U.S. Navy personnel who have lived literally on top of nuclear reactors in submarines and Navy ships for more than 50 years without incident. The Nuclear Regulatory Commission agrees, and its painstaking supervision and application process is intended to do everything humanly possible to keep our commercial fleet of reactors safe.

On the issue of waste, Dr. CHU says there is a two-step solution. Step 1 is, store the spent nuclear fuel on site for 40 to 60 years. The Nuclear Regulatory Commission agrees this can be done safely, maybe for 100 years. Step 2 is research and development, to find the best way to recycle fuel so that its mass is reduced by 97 percent, pure plutonium is never created, and the waste is only radioactive for 300 years instead of 1 million years. That kind of recycling would take care of both the waste and the third fear of nuclear power—the threat that other countries might somehow use plutonium to build a bomb.

One could argue that because the United States failed to lead in developing the safe use of nuclear technology for the last 30 years, we may have made it easier for North Korea and Pakistan to steal or buy nuclear secrets from rogue countries.

I concluded with this prediction: Taking into account these energy sprawl concerns, I believe the best way to reach the necessary carbon reduction goals for climate change, with the least damage to our environment and to our economy, will prove to be, No. 1, building 100 new nuclear plants in 20 years; No. 2, electrifying half the cars and trucks in 20 years—we probably have enough unused electricity to plug these vehicles in at night without building one new power plant—and No. 3, putting solar panels on rooftops. To make this happen, the government should launch mini-Manhattan Projects, like the one we had in World War II, for recycling used nuclear fuel, for better batteries, for electric vehicles, to make solar panels cost competitive, and, in addition, to recapture carbon from coal plants. This plan I have just described should produce the largest amount of electricity with the smallest amount of carbon at the lowest possible cost, thereby avoiding the pain and suffering that comes when high-cost energy pushes jobs overseas and makes it hard for low-income Americans to afford their heating and cooling bills.

My fellow Tennessean Al Gore won a Nobel Prize for arguing that global warming is the inconvenient problem. For those who believe he is right—and if you are also concerned about energy sprawl—then I would suggest nuclear power is the inconvenient solution.

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

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

The bill clerk proceeded to call the roll.

Mr. DORGAN. 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.

AUTHORITY TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. DORGAN. Mr. President, I ask unanimous consent that the majority leader be authorized to sign any duly enrolled bills and joint resolutions during today's session, Monday, October 5.

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

FREEDOM TO TRAVEL

Mr. DORGAN. Mr. President, last Friday the New York Times had an article which caught my eye, and the headline was the following: ''October New York Philharmonic Trip to Cuba is Off.'' I want to talk for a moment about this. I was extraordinarily disappointed to read this because this is an issue of the freedom to travel by the American people, specifically, the freedom to travel to Cuba.

This country has had an embargo against the country of Cuba for a long while. Cuba is a Communist country. Fidel Castro has poked his finger in the eye of America for a long time, so we have had an embargo for a long time. Part of the way to injure the Castro regime, presumably, as a part of this embargo is to prevent the American people from traveling to Cuba. The American people can travel to Communist China, to Communist Vietnam, to North Korea, but the American people are considered taking a criminal act if they travel to Cuba. There are some exceptions; the U.S. Treasury Department gives licenses to travel for certain kinds of educational and cultural things, and for trade.

So the New York Philharmonic orchestra was going to Cuba, but had to cancel the trip. Daniel Wakin wrote about it in the New York Times last Friday October 1, 2009. The reason I wanted to mention this is because it is almost unbelievable what we are still doing with respect to our travel policy with Cuba.

Senator ENZI and I have a piece of legislation that removes all travel restrictions with respect to travel to Cuba. We have over 30 Senators who are cosponsors of that legislation, but while we are waiting to pass our legislation, we are going through this nonsense of having the Federal Government and the Treasury Department tell us who can and who cannot travel, restricting the liberty and the freedom of the American people. It is outrageous, in my judgment.

Trips like the one the New York Philharmonic planned to Havana are not unusual. These kinds of trips happen all of the time. In 1959, at the height of the Cold War with the Soviet Union, the New York Philharmonic played in Moscow. It is a reasonably good thing, in my judgment, to be able to extend our culture and the hand of friendship through music.

One of the reasons I was especially interested in this is that the New York Philharmonic visited North Korea last year, and I asked conductor Loren Maazel and Zarin Mehta, President of the Philharmonic's board, to come and speak to our caucus. They described to us their performances in North Korea. They said the applause went on and on, even after they left the stage. What a great way to exchange with another country, to extend cultural enlightenment and to share with other countries. Again, the New York Philharmonic orchestra played in North Korea last year, but cannot play in Cuba without a special license.

The New York Philharmonic is going to Communist Vietnam this month.

Yes, it is a Communist country. So, too, is North Korea, as is China, as is Russia. But the New York Philharmonic orchestra has no difficulty being able to play music in those countries because there are no travel restrictions with respect to those countries.

Let me describe, if I might, the absurdity of all of this. The Office of Foreign Assets Control is a little agency in the Treasury Department that is in charge of granting licenses that, under certain conditions, will allow you to travel to Cuba. The license they decided to allow the New York Philharmonic to go to Cuba and play their music did not include allowing the benefactors of the Philharmonic to travel with them and the Philharmonic decided that was unacceptable. Frankly, I understand why it is unacceptable for them. That doesn't make any sense to me.

The OFAC regulations says

> Unless otherwise authorized, any person subject to U.S. jurisdiction who engages in any travel-related transaction in Cuba violates the regulations.

That is unbelievable to me. That has been around, I think, for 40 years, 50 years.

Let me give examples of some people who have traveled to Cuba who our Federal Government has chased and harassed. By the way, this little agency called OFAC, somewhere in the bowels of the U.S. Treasury Department, the Office of Foreign Assets Control, is supposed to be tracking terrorist money, protecting us from terrorists. Instead they have been busy chasing people who go to Cuba. In the previous administration, up to a quarter of their time was spent trying to track Americans who were under suspicion of taking a vacation in Cuba. It is pretty absurd, it seems to me.

This is Joan Slote. She was a senior citizen and bicyclist who was fined $7,630. Do you know why? Because she joined a Canadian bicycling group that took a bicycle tour of Cuba and, as a result of that, her government—under the previous administration—tracked her down, threatened to attach her Social Security checks, and fined her $7,630 for riding a bicycle in Cuba.

Here is a picture of a woman I have met named Joni Scott. Joni Scott's transgression? She is a very religious woman, a devout Christian. She went to Cuba to hand out free Bibles on the streets of Cuba and her government tried to track her down and fine her $10,000 for handing out free Bibles on the streets of Cuba because she violated the travel ban. The travel ban, that means restricting the liberty of the American people. We do not ban travel to other countries. We do not do it for communist China, for communist Russia, communist Vietnam—just for Cuba.

This is SGT Carlos Lazo. A number of years ago, Carlos Lazo went and fought in the country of Iraq, wearing America's uniform. He is a Cuban-American. He was in Iraq as a fighting soldier for this country. He won the Bronze Star for gallantry. He had two children in Cuba, one of whom was sick, and his government that he fought for and won the Bronze Star for, told him he was not able to travel to Cuba to see his own sick child. Hat shows how unbelievably wrong this policy is.

Let me describe what the policy is about traveling to other countries. The rules say:

> All transactions ordinarily incident to travel to or from Iran . . . are permitted.

If you want to go to Iran, no problem; that is not an issue. You are welcome to go to Iran.

If you want to see Kim Jong-il in North Korea, it is not a problem. The rules say:

> U.S. passports are valid for travel in North Korea and individuals do not need U.S. Government permission to travel there.

Here are the 10 Presidents we have had since we decided to punish the American people with a travel ban to Cuba—10 Presidents. You talk about failure—it is one thing just to fail; it is another thing to insist that failure is a good thing for 50 years. This Government of Cuba has lasted through 10 Presidents. What we have decided to do is, over all these years, to ban travel to Cuba by the American people.

You can go to Cuba in certain capacities. You can go in certain educational capacities, or cultural capacities, provided you get a license. I have been to Cuba. I have been to Havana. I have visited with government officials, I visited with all the dissidents in Cuba. Many of my colleagues here in Congress have undoubtedly traveled to Cuba. But we have a licensing requirement with respect to travel to Cuba.

We also had this trade embargo for all of these years. I was one who, some years ago, lifted that embargo slightly to be able to sell food and medicine into Cuba. I think it is fundamentally immoral to use food as a weapon. We had an embargo against selling food to Cuba. The Europeans were selling into Cuba, the Canadians were selling into Cuba; the American farmers were told you can't sell food into Cuba. As a result of my amendment, the amendment I offered with then Senator Ashcroft, that amendment opened just a bit the sale of food into Cuba and allowed medicine to go into Cuba as well, but that is the only thing that has happened in all of these years.

Senator ENZI and I have offered a bipartisan piece of legislation that would allow travel, allow the American people the freedom to travel in Cuba.

My colleagues in this Chamber talk a lot about freedom. What about the freedom of the American people to travel? Why is it we have decided to punish the Cuban regime by restricting Americans' freedoms?

I come back to the basic proposition. That is, one of the great music groups in the world, the New York Philharmonic, which has played in North Korea, in Russia, and is about to play in Vietnam, is told: Here are the circumstances and conditions in which you can play in Cuba. By the way, they are onerous. The New York Philharmonic found those circumstances and conditions unacceptable and I understand why.

I am writing to the Office of Assets Control to see if we could not get them to think straight a bit. It makes no sense at all to decide that this kind of exchange is unworthy. Does anybody really think that having the New York Philharmonic play beautiful music in the city of Havana, in the country of Cuba, is in any way going to threaten anybody? Wouldn't it perhaps do at least what it did for those who were able to experience that wonderful music in North Korea? I saw the photographs, I saw the video. I believe ''60 Minutes'' did a piece on it, that showed how unbelievably they were responded to by the North Korean people who heard them, who listened to the New York Philharmonic. Wouldn't that be the same with respect to Cuba?

Why on Earth should our government be interpreting this travel restriction in the way that is designed to try to restrict rather than expand these opportunities? I have seen how OFAC, over these years, tries to find ways to tighten, find ways to create opportunity to restrict travel. That makes no sense to me at all.

When I read this, this weekend, I thought what on Earth could they be thinking of? Where is the deep reservoir of common sense that you should expect from people who are confronted with this issue? When confronted with the issue of granting a license to the New York Philharmonic Orchestra to represent our country in doing concerts in Havana, why should OFAC be trying to find ways to make that too restrictive for the Philharmonic and its benefactors to travel to Cuba and do what they had intended to do?

This kind of opportunity to connect with other countries has a long history. I showed a picture of the New York Philharmonic, conducted by Leonard Bernstein, performing in the Great Hall in the Moscow Conservatory. Let me show that again. It raises the question about common sense. If we are able, in 1959, with all of the tensions with Moscow and the Soviet Union at that point, and we sent our New York Philharmonic Orchestra in an exchange and Leonard Bernstein conducted, and they, too, were greeted with long, sustained applause because people were so appreciative of them being in Moscow; if that has been the case—and it has been in every circumstance and last year especially it was with respect to the appearance in North Korea—if that is the case, why on Earth would our Government do anything other than encourage the New York Philharmonic to do the concert in Havana, instead of discourage it, instead of finding ways to tighten

this down so the New York Philharmonic and their benefactors had decided they simply couldn't go under those conditions?

Common sense ought to apply on this issue of the liberty and the freedom of the American people to travel. There ought not be travel restrictions to Cuba at all. They ought to be gone and we ought to pass the Dorgan-Enzi bill that strikes the travel restrictions with respect to Cuba. We have not yet found a way to get it to the floor. When we do, I guarantee we will have sufficient votes on the floor of the Senate to offer the American people the freedom they should have had in the last 50 or 60 years, and that is freedom to travel. In this case that freedom has been taken from them and it is outrageous.

I mentioned Joan Slote. When I became involved in this issue of what this embargo costs our country, I was furious to find an elderly woman riding a bicycle in Cuba and then fined $7,300 by her government.

By the way, when she came back, her son had brain cancer so she wasn't home, she was attending to her son who had brain cancer down in California, and she didn't get the mailing to her house and then they threatened to take her Social Security away. Why? Because she was suspected of vacationing in Cuba, riding a bicycle with a Canadian bicycle group.

All of this I think is nuts and I hope at some point the New York Philharmonic will be given the license, with their benefactors, to go down and do the concert in Havana, Cuba; do the concert there. In the meantime, I hope the Office of Foreign Asset Control will take a look at this and make a new decision. They have the right to make a better decision. In my judgment they didn't make the right decision here. I hope they overturn that decision. I have written them a letter today asking them to do that. Let's use a little common sense here.

Following that, I hope Senator ENZI and I will get our legislation on the floor of the Senate and remove the travel restrictions that now impede the freedom of the American people to travel to Cuba.

The country of Cuba has been a thorn in our side for a long time; I understand that. But attempting to punish the leaders of Cuba by punishing the American people makes no sense at all. That is exactly what has happened since the early 1960s. My hope is that some day, despite the news last Friday that the New York Philharmonic has canceled this trip—my hope is some day very soon we will have a policy that doesn't have anybody canceling trips because they didn't get their license to travel. My hope is anybody can travel anywhere, representing the best of this country.

The New York Philharmonic is a wonderful cultural ambassador—to the Soviet Union, and North Korea, and Vietnam, all communist countries—and it can also be with Cuba. I hope that will happen soon.

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

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

The bill clerk proceeded to call the roll.

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

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

DEFENSE APPROPRIATIONS

Mr. MCCAIN. Mr. President, I rise today to discuss the 2010 Defense appropriations bill and the three amendments that will be called up tomorrow on C–17s, for-profit earmark competition, and a particularly egregious earmark on hypersonic wind tunnel development.

Tomorrow the Senate will resume consideration of the 2010 Department of Defense Appropriations Act. This must-pass bill provides $626 billion for the day-to-day operations of our military, including the critical resources that support our commanders as they lead operations in Afghanistan and Iraq.

The bill also contains billions of dollars in wasteful spending, including $2.7 billion in Member-requested earmarks and billions of dollars in unrequested weapons systems, which is where you will find $2.5 billion for the C–17 cargo aircraft. In order to stuff these programs into the bill that the Pentagon did not request and does not want, and to enable Members to continue in their porkbarreling ways, the appropriators cut over $3 billion in the military service operation and maintenance account.

This account is the lifeblood of our military forces. The account provides the military with funds to carry out day-to-day activities, such as the recruitment and fielding of a trained and ready force, all military training, exercises, food, weapons, spare parts, equipment repair, ship overhauls, transportation services, civilian personnel management and pay, and childcare and family centers.

At a time when stress on our force and their families is significant, we are cutting funds from this account to put into this bill unwanted C–17s and Members' pork projects. There were plenty of lobbyists around for the C–17s last week. They were here in abundance. There are others who are seeking these porkbarrel projects.

Unfortunately, there are no lobbyists for the men and women serving in the military. There are no lobbyists to provide them with the much-needed funds in order to conduct the training and the operation and the maintenance and the repair of the equipment and their pay and all of the things that are so vital to maintaining our great military of today.

There are no lobbyists for them. So let's cut $3 billion out of their training, out of their exercises, out of their weapons and spare parts and equipment repairs, ship overhauls, civilian personnel management and pay, childcare and family centers. Cut all of that out and put in $2.5 billion for a C–17 that the military neither needs nor wants.

Just last month, the President spoke in Phoenix, AZ, to the Veterans of Foreign Wars. In that speech, the President's words were quite compelling about waste and porkbarrel spending in Defense bills. In that speech the President promised an end ''to special interests and their exotic projects'' and reaffirmed that he was leading the charge to kill off programs such as the F–22, the second engine for the Joint Strike Fighter, and the outrageously expensive Presidential helicopter.

The President went on to say:

> If a project does not support our troops, we will not fund it. If a system does not perform well, we will terminate it. And if Congress sends me a bill loaded with that kind of waste, I will veto it.

Well, we will now see if the President is willing to follow through on that bold declaration. On April 6, 2009, Secretary Gates personally issued his highly touted statement on the 2010 defense budget. In that statement, he recommended, among other things, ending production of the F–22, terminating the Presidential helicopter, and completing production of the C–17 cargo aircraft. Secretary Gates said with the 205 C–17s already in the force and currently on order, the Department's analysis was that the military had enough C–17s.

While we may have won a small victory against the defense industrial complex in July, when the Senate voted 58 to 40 to kill the F–22, it appears the administration has thrown in the towel on reining in spending on the C–17. In May, the House appropriators added eight C–17s into the 2009 supplemental appropriations bill at a cost of $2.2 billion. The Pentagon did not even blink. In July, the House appropriators again added three more C–17s to the 2010 Defense appropriations bill, and with the White House apparently having given up on any kind of fight with Congress on the C–17, and believing they had a green light, the Senate appropriators upped the number of C–17s to 10 aircraft, $2.5 billion.

Beneath the President's Phoenix rhetoric and with $2.5 billion in unrequested C–17s, $2.7 billion in member earmarks and a significant cut in operation and maintenance funding, one would have expected the President and Secretary Gates to be outraged. However, we have heard barely a word of opposition from them. Although the Statement of Administration Policy raised opposition to the additional C–17s and the cuts to operation and maintenance funding, it appears the President is not getting out his veto pen to

take a stand behind his own strong rhetoric on earmarks and government waste.

I know these words will fall on deaf ears, but it is certainly not responsible for Congress to continue to load up appropriations bills—and, yes, authorization bills—with wasteful and unnecessary spending. Americans all over the country are hurting. People are losing jobs, their savings and their homes. Yet we continue the disgraceful earmarking process, elevating parochialism and patronage politics over the true needs and welfare of our men and women in uniform and the taxpayers.

If Senators think that all sounds too familiar, they are right; it is business as usual. When push comes to shove, nobody seems to really mind. The appropriators know what they need to do to keep the President from threatening to veto a defense spending bill. They know that $2.5 billion in unrequested C–17s, $2.7 billion in Member-requested earmarks, and cuts of over $3 billion to the lifeblood account of our military services won't cause the President to pause a moment before signing such a bill into law. The idea of vetoing a defense appropriations bill that funds the wars in Iraq and Afghanistan is unimaginable, and that is exactly the protection sought by Members when they subscribe to unrequested, costly weapons systems and earmarks.

Servicemembers who defend our Nation around the globe are making great sacrifices. Their families back home are making sacrifices. Because we ask these heroes to forfeit so much, we in Congress should also be ready to make sacrifices. Sometimes that means doing what is best for the Nation instead of doing what is best for one's campaign. Our Nation's security and the welfare of our servicemembers are higher priorities than the favor of special interests or the opportunity to tout the bacon we are bringing home.

Despite what I think is going to happen, I believe that if the President wants to send a message that we are serious about cutting out wasteful and unnecessary and corrupting spending in Congress, he should veto this bill, and we could send it back to him in a New York minute without the pork it is so full of.

I wish to discuss the three amendments.

Tomorrow, the Senate will vote on my amendment to strike the addition of 10 unrequested C–17 aircraft. As I discussed before, the administration strongly objects to the addition of the $2.5 billion in funding for those 10 unrequested C–17s. That brings up a very interesting question: Why would the administration threaten to veto the bill if it included the F–22s, yet strongly object to the $2.5 billion for the 10 unrequested C–17s? It is very interesting. Given how much our airlift capacity currently exceeds operational requirements, I see no reason we should buy more aircraft. It is not just an additional $2.5 billion for these 10 C–17s, it is an additional $100 million a year to maintain and operate them.

One of the great, untold stories of earmarking is that money that is used to fund special interests' projects would otherwise have been used to address the stated needs of our military services. The service chiefs who are in the best position to advise Congress of their priorities are routinely shortchanged so that Senators can fund their pet projects. Each earmark requires departmental administration, and each draws manpower and resources away from critical issues facing a nation at war. I have heard that the impact of these many small earmarks is akin to death by 1,000 cuts. By my preliminary count, there are almost 700 unrequested earmarks in this bill, over 400 of which are not authorized in the National Defense Authorization Act. This represents more than $1.3 billion in funding for unrequested, unauthorized Member interest items, $1.3 billion that would have gone to service priorities. Some have merit. None are military priorities. A few are actually detrimental to the Defense Department. I am referring to earmarks that endure year after year, siphon funding from legitimate programs, and provide no discernable benefit to servicemembers.

Tomorrow, the Senate will cast scrutiny on one such project when we vote on my amendment to strike $9.5 million for the MARIAH hypersonic wind tunnel research program in Montana. It has never been requested in the President's budget. It has never been authorized. Yet it has been appropriated every year since 1998. To date, total Defense appropriations for MARIAH account for $68.5 million. The total would be $74 million if we include unrequested earmarks through NASA; $83.5 million if this year's earmark for MARIAH remains in the bill.

Here we are, Congress has appropriated millions for an unrequested, unauthorized program that is objectionable enough, but the MARIAH program and the contractor that supports it are case studies in the fundamental problems with the congressional appropriations process.

Let me shed a little light on that. MARIAH is a research program intended to develop technologies that would be required to build a national high-speed wind tunnel. Congress originally funded the project through NASA earmarks during the 1990s. NASA responded that they had no interest in the program. From 1998 to 2003, MARIAH was an Air Force program. The Air Force, the leader in hypersonic testing and technology, begged off the program in 2004. So the appropriators moved it to the Army. The Army has no official requirement for this capability and published a report to Congress in 2005 stating their disinterest in the program. Here is an excerpt:

> The U.S. Army believes it is premature to include the MARIAH wind tunnel concept within their budget as a program of record due to the lack of information and technical data to show that the concept is feasible. Further, the U.S. Army has yet to establish an operational requirement to justify the need for such expenditures in the Future Years Defense Program. Therefore, the U.S. Army does not plan to fund the MARIAH wind tunnel effort . . .

Priorities change over time. I asked the Army to detail their current investment in MARIAH and explain how the Army might use this research to develop new capabilities. I received a response yesterday. Here is what the Army said:

> There are no current operational requirements for a hypersonic missile program within the Army. No Army missions currently require hypersonic flight technologies. The Army does not plan to budget for hypersonic wind tunnel development in the [current or future years] since the Army does not have an operational requirement for a hypersonic missile.

Finally, when asked whether the MARIAH program provides value-added capabilities, the Army's answer was ''no.''

So the Army's official response and explanation sounds like their 2005 response. Unfortunately, Congress hasn't been listening. We have poured more than $70 million into it with no sign of stopping and with no discernable return on investment. Let me repeat that: no end date, no return on investment.

One group has made out well in the endeavor. Of course, I am referring to lobbyists, including Gage LLC, whose CEO, coincidentally, had been a senior staffer to an appropriator from Montana.

The other big winner is the contractor, a company called MSE Technology Applications located, astonishingly, in Butte, MT. MSE is part of a former Department of Energy facility created in the 1970s to conduct energy research. In 1996, MSE had an agreement with DOD to privatize over the course of 5 years, and DOD provided funding to assist the privatization effort. Simultaneously, MSE executives began a pattern of hiring lobbyists, participating in fundraisers for elected Members of Congress, and taking millions of dollars in earmarks. So much for privatization. In fact, MSE itself has claimed it was entirely dependent on Federal earmarks following the so-called privatization effort.

More than a decade later, not much has changed. The Montana Standard, the local newspaper, reports that 75 percent of MSE's current business comes from Federal earmarks. According to their CEO:

> Earmarks can have a negative connotation, but what they mean is we have contracts.

So this is a company that would not exist without government earmarks. What did MSE pay for these earmarks? Over $2 million in fees to Washington lobbyists and tens of thousands of dollars in campaign contributions. We have the filings. MSE has perfected the

process of using lobbyists to secure Federal funding.

Here is the most outrageous part. In 2000, MSE executives pled guilty to making illegal campaign contributions to Federal candidates. Let me explain. According to a report provided to Congress by the Department of Justice:

> MSE, Inc., an engineering corporation headquartered in Butte, Montana, pled guilty on April 27, 2000, to making contributions to federal candidates through conduits and making corporate contributions to federal candidates in violation of the Federal Election Campaign Act. The corporation agreed to pay a criminal fine of $97,500 and a civil penalty to the Federal Election Commission of an additional $19,500. In addition, the corporation's two principal officers agreed, as part of the corporation's probation, to perform community service by lecturing business groups throughout Montana on the prohibitions of the [Federal Election Campaign Act], and to implement a corporate compliance agreement aimed at ensuring that the company did not violate the [Federal Election Campaign Act] in the future. The corporation was sentenced on April 27, 2000, in accordance with the plea agreement.

This company has a criminal record. Yet it still receives congressionally approved earmarks, apparently on the basis of connections between it, its lobbyists, and the offices of Members for whom those lobbyists used to work.

MSE and its MARIAH project are a black hole for Federal funding. MSE executives have benefited financially on the backs of the taxpayers for many years, and the Department of Defense has needlessly wasted over $70 million on MARIAH research that no one wants. Taxpayers' dollars put toward MARIAH were met with resistance from each Federal agency compelled to fund it by previous earmarks. These earmarks have produced no discernible return.

In light of this sordid story—$70 million wasted over 11 years and the prospect of continuing funding for a program no one wants—I ask my colleagues to support my amendment to strike the $9.5 million MARIAH earmark from the fiscal year 2010 Defense appropriations bill.

Finally, I have spoken for many years about the earmarking process and the corruption it breeds. I am deeply concerned over the damage it has done to our country and this institution by its continued abuse. We have made some progress in the past couple years but not nearly enough. Legislation we passed in 2007 provided for greater disclosure. While that was a good step forward, the bottom line is that we simply need more disclosure of earmarks. We need to reduce them, with the final goal of eliminating them entirely. The corruption which stems from the practice of earmarking has resulted in former Members of both the House and Senate either under investigation, under indictment, or in prison. Let's be clear. It wasn't inadequate disclosure requirements which led Duke Cunningham to violate his oath of office and take $2.5 million in bribes in exchange for doling out $70 to $80 million of the taxpayers funds to a defense contractor. It was his ability to freely earmark taxpayer funds without question.

Tomorrow, Senators will have an opportunity to vote on an amendment I have offered that requires earmarks intended for for-profit entities included in the Defense appropriations bill be competitively bid. I repeat: requires earmarks intended for for-profit entities included in the Defense appropriations bill be competitively bid. That does not seem like it should be too tough. Just competitively bid these earmarks.

By requiring full and open competition, Congress can make the process of public funding more transparent and bring to bear the benefits of competition. The results will be lower costs to the government, innovation among contractors and suppliers, and better outcomes for the American taxpayer.

I am not the first person to think this is a good idea. The President and the Appropriations Committee in the House of Representatives are both on record endorsing it. Unfortunately, to date, and despite our good intentions, Congress has not been able to make it happen.

President Obama has promised to fight ''the special interests, contractors and entrenched lobbyists'' that have bloated past appropriations and distorted military priorities. In March of this year, he called the awarding of earmarks for private companies ''the single most corrupting element of this practice'' and said funding for such projects should be evaluated with a higher level of scrutiny and subject to the same competitive bidding process as Federal contracts. I agree, but I would have gone further by calling for the elimination of earmarks altogether.

I was pleased to see our House counterparts expressed interest in competing earmarks intended for private industry. But the Senate Appropriations Committee balked at the suggestion that funding for special interest programs be subject to competition, and the result of recent Senate-House negotiations is that earmarks in the fiscal year 2010 appropriations bills will not have to be competitively bid.

I urge my colleagues to support my amendment. We must not allow this body to go back to the old ways of doing business.

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

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

The legislative clerk proceeded to call the roll.

Mr. REED. 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.

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

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

EXTENDING UNEMPLOYMENT BENEFITS

Mr. REED. Mr. President, I rise in support of a swift extension of the unemployment insurance benefits to help jobless people throughout this country.

Last week, we learned that the economy had shed 263,000 jobs in September and the unemployment rate increased to 9.8 percent. I grant this is a remarkable change since the first of the year when 700,000 jobs or more were being lost. Still, that is very small comfort to those people who are losing their jobs and others who are losing their benefits if we fail to act swiftly and extend unemployment benefits for additional weeks.

This is the particular case in my State of Rhode Island. We are looking at a 12.8 percent unemployment rate. There are thousands who have already exhausted their unemployment benefits, and there are another 4,500 who are estimated will lose their benefits before the end of the year. This is an extraordinary number of people who are out of work, and they are finding incredible difficulty in securing jobs.

I ask that my colleagues come together in support of an extension of the unemployment insurance benefits. The House overwhelmingly passed this legislation on a bipartisan basis. I have introduced legislation here, along with Senator LINDSEY GRAHAM of South Carolina.

This is not a partisan issue. The job losses in this country are across the Nation. They are affecting working families and people who have spent their whole lives working hard, and now they face a huge crisis—without a job—and they are facing uncertainty in the future, health care issues, tuition for college, and those things families struggle with every day.

In addition, unemployment insurance is one of those features of support that actually increases demand, accelerates the economy. The effect of unemployment insurance for each dollar is more than a dollar of economic activity generated. At this time, we are trying to jump-start the economy and move it forward and give it momentum so it doesn't falter and fall back. Unemployment insurance provides not only individual assistance, but it also assists the economy.

We are in the most severe economic downswing since the Great Depression. We have to go ahead and help people who need it and based on their work. That is one of the other values of unemployment insurance. These people are our colleagues and friends and neighbors who have worked and now they are without work. They desperately want to work. In the interim, before they are able to find a job, they need us to provide some minimal support and also to ensure that our economy continues to move forward.

I urge all my colleagues to follow the lead of the House so that, on a bipartisan basis, we can extend unemployment insurance for millions of Americans.

With that, 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. SHELBY. 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. SHELBY. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2847.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2847) making appropriations for the Department of Commerce, and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

The Senate proceeded to consider the bill (H.R. 2847) which had been reported from the Committee on Appropriations, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:

TITLE I

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and for engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the International Trade Administration between two points abroad, without regard to 49 U.S.C. 40118; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding 10 years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $45,000 per vehicle; obtaining insurance on official motor vehicles; and rental of tie lines, $455,704,000, to remain available until September 30, 2011, of which $9,439,000 is to be derived from fees to be retained and used by the International Trade Administration, notwithstanding 31 U.S.C. 3302: Provided, That not less than $49,530,000 shall be for Manufacturing and Services; not less than $43,212,000 shall be for Market Access and Compliance; not less than $68,290,000 shall be for the Import Administration; not less than $257,938,000 shall be for the Trade Promotion and United States and Foreign Commercial Service; and not less than $27,295,000 shall be for Executive Direction and Administration: Provided further, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act of 1961 shall include payment for assessments for services provided as part of these activities: Provided further, That negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties: Provided further, That negotiations shall be conducted within the World Trade Organization consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107–210, to maintain strong U.S. remedies laws, correct the problem of overreaching by World Trade Organization Panels and Appellate Body, and prevent the creation of obligation never negotiated or expressly agreed to by the United States: Provided further, That within the amounts appropriated, $1,500,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act.

BUREAU OF INDUSTRY AND SECURITY

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); and purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law, $100,342,000, to remain available until expended, of which $14,767,000 shall be for inspections and other activities related to national security: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: Provided further, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, and for trade adjustment assistance, $200,000,000, to remain available until expended: Provided, That of the amounts provided, no more than $4,000,000 may be transferred to ''Economic Development Administration, Salaries and Expenses'' to conduct management oversight and administration of public works grants.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $38,000,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, title II of the Trade Act of 1974, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $31,200,000: Provided, That within the amounts appropriated, $200,000 shall be used for the projects, and in the amounts, specified in the table entitled, ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $100,600,000, to remain available until September 30, 2011.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $259,024,000.

PERIODIC CENSUSES AND PROGRAMS

For necessary expenses to collect and publish statistics for periodic censuses and programs provided for by law, $7,065,707,000, to remain available until September 30, 2011: Provided, That none of the funds provided in this or any other Act for any fiscal year may be used for the collection of census data on race identification that does not include ''some other race'' as a category: Provided further, That from amounts provided herein, funds may be used for additional promotion, outreach, and marketing activities.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), $19,999,000, to remain available until September 30, 2011: Provided, That, notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, operations, and related services, and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: Provided further, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For the administration of grants, authorized by section 392 of the Communications Act of

1934, $20,000,000, to remain available until expended as authorized by section 391 of the Act: Provided, That not to exceed $2,000,000 shall be available for program administration as authorized by section 391 of the Act: Provided further, That, notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, $1,930,361,000, to remain available until expended: Provided, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year 2010, so as to result in a fiscal year 2010 appropriation from the general fund estimated at $0: Provided further, That during fiscal year 2010, should the total amount of offsetting fee collections be less than $1,930,361,000, this amount shall be reduced accordingly: Provided further, That of the amount received in excess of $1,930,361,000 in fiscal year 2010, in an amount up to $100,000,000 shall remain until expended: Provided further, That from amounts provided herein, not to exceed $1,000 shall be made available in fiscal year 2010 for official reception and representation expenses: Provided further, That of the amounts provided to the USPTO within this account, $25,000,000 shall not become available for obligation until the Director of the USPTO has completed a comprehensive review of the assumptions behind the patent examiner expectancy goals and adopted a revised set of expectancy goals for patent examination: Provided further, That in fiscal year 2010 from the amounts made available for ''Salaries and Expenses'' for the USPTO, the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by the Office of Personnel Management, of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees, shall be transferred to the Civil Service Retirement and Disability Fund, the Employees Life Insurance Fund, and the Employees Health Benefits Fund, as appropriate, and shall be available for the authorized purposes of those accounts: Provided further, That sections 801, 802, and 803 of division B, Public Law 108–447 shall remain in effect during fiscal year 2010: Provided further, That the Director may, this year, reduce by regulation fees payable for documents in patent and trademark matters, in connection with the filing of documents filed electronically in a form prescribed by the Director: Provided further, That $2,000,000 shall be transferred to ''Office of Inspector General'' for activities associated with carrying out investigations and audits related to the USPTO.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $520,300,000, to remain available until expended, of which not to exceed $9,000,000 may be transferred to the ''Working Capital Fund'': Provided, That not to exceed $5,000 shall be for official reception and representation expenses: Provided further, That within the amounts appropriated, $10,500,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Hollings Manufacturing Extension Partnership of the National Institute of Standards and Technology, $124,700,000, to remain available until expended. In addition, for necessary expenses of the Technology Innovation Program of the National Institute of Standards and Technology, $69,900,000, to remain available until expended.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation and maintenance of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $163,900,000, to remain available until expended: Provided, That within the amounts appropriated, $47,000,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act: Provided further, That the Secretary of Commerce shall include in the budget justification materials that the Secretary submits to Congress in support of the Department of Commerce budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) an estimate for each National Institute of Standards and Technology construction project having a total multi-year program cost of more than $5,000,000 and simultaneously the budget justification materials shall include an estimate of the budgetary requirements for each such project for each of the five subsequent fiscal years.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft and vessels; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities, $3,301,131,000, to remain available until September 30, 2011, except for funds provided for cooperative enforcement, which shall remain available until September 30, 2012: Provided, That fees and donations received by the National Ocean Service for the management of national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: Provided further, That in addition, $3,000,000 shall be derived by transfer from the fund entitled ''Coastal Zone Management'' and in addition $104,600,000 shall be derived by transfer from the fund entitled ''Promote and Develop Fishery Products and Research Pertaining to American Fisheries'': Provided further, That of the $3,304,131,000 provided for in direct obligations under this heading $3,301,131,000 is appropriated from the general fund, $3,000,000 is provided by transfer: Provided further, That the total amount available for the National Oceanic and Atmospheric Administration corporate services administrative support costs shall not exceed $226,809,000: Provided further, That payments of funds made available under this heading to the Department of Commerce Working Capital Fund including Department of Commerce General Counsel legal services shall not exceed $36,583,000: Provided further, That within the amounts appropriated, $57,725,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act: Provided further, That any deviation from the amounts designated for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: Provided further, That in allocating grants under sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, no coastal State shall receive more than 5 percent or less than 1 percent of increased funds appropriated over the previous fiscal year.

In addition, for necessary retired pay expenses under the Retired Serviceman's Family Protection and Survivor Benefits Plan, and for payments for the medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. 55), such sums as may be necessary.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, $1,397,685,000, to remain available until September 30, 2012, except funds provided for construction of facilities which shall remain available until expended: Provided, That of the amounts provided for the National Polar-orbiting Operational Environmental Satellite System, funds shall only be made available on a dollar-for-dollar matching basis with funds provided for the same purpose by the Department of Defense: Provided further, That except to the extent expressly prohibited by any other law, the Department of Defense may delegate procurement functions related to the National Polar-orbiting Operational Environmental Satellite System to officials of the Department of Commerce pursuant to section 2311 of title 10, United States Code: Provided further, That any deviation from the amounts designated for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: Provided further, That the Secretary of Commerce is authorized to enter into a lease, at no cost to the United States Government, with the Regents of the University of Alabama for a term of not less than 55 years, with two successive options each of 5 years, for land situated on the campus of University of Alabama in Tuscaloosa to house the Cooperative Institute and Research Center for Southeast Weather and Hydrology: Provided further, That within the amounts appropriated, $19,000,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act.

PACIFIC COASTAL SALMON RECOVERY

For necessary expenses associated with the restoration of Pacific salmon populations, $80,000,000, to remain available until September 30, 2011: Provided, That of the funds provided herein the Secretary of Commerce may issue grants to the States of Washington, Oregon, Idaho, Nevada, California, and Alaska, and federally recognized tribes of the Columbia River and Pacific Coast for projects necessary for conservation of salmon and steelhead populations that are listed as threatened or endangered, or identified by a State as at-risk to be so-listed, for maintaining populations necessary for exercise of tribal treaty fishing rights or native subsistence fishing, or for conservation of Pacific coastal salmon and steelhead habitat, based on guidelines to be developed by the Secretary of Commerce: Provided further, That funds disbursed to States shall be subject to a matching requirement of funds or documented in-kind contributions of at least 33 percent of the Federal funds.

COASTAL ZONE MANAGEMENT FUND

(INCLUDING TRANSFER OF FUNDS)

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed $3,000,000 shall be transferred to the ''Operations, Research, and Facilities'' account to offset the costs of implementing such Act.

FISHERIES FINANCE PROGRAM ACCOUNT

Subject to section 502 of the Congressional Budget Act of 1974, during fiscal year 2010, obligations of direct loans may not exceed $16,000,000 for Individual Fishing Quota loans and not to exceed $59,000,000 for traditional direct loans as authorized by the Merchant Marine Act of 1936: Provided, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For expenses necessary for the departmental management of the Department of Commerce provided for by law, including not to exceed $5,000 for official reception and representation, $61,000,000: Provided, That the Secretary, within 120 days of enactment of this Act, shall provide a report to the Committee on Appropriations of the Senate that audits and evaluates all decision documents and expenditures by the Bureau of the Census as they relate to the 2010 Census: Provided further, That of the amounts provided to the Secretary within this account, $5,000,000 shall not become available for obligation until the Secretary certifies to the Committee on Appropriations of the Senate that the Bureau of the Census has followed and met all standards and best practices, and all Office of Management and Budget guidelines related to information technology projects and contract management.

HERBERT C. HOOVER BUILDING RENOVATION AND MODERNIZATION

For expenses necessary, including blast windows, for the renovation and modernization of the Herbert C. Hoover Building, $22,500,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $27,000,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 103. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: Provided further, That the Secretary of Commerce shall notify the Committees on Appropriations at least 15 days in advance of the acquisition or disposal of any capital asset (including land, structures, and equipment) not specifically provided for in this Act or any other law appropriating funds for the Department of Commerce: Provided further, That for the National Oceanic and Atmospheric Administration this section shall provide for transfers among appropriations made only to the National Oceanic and Atmospheric Administration and such appropriations may not be transferred and reprogrammed to other Department of Commerce bureaus and appropriation accounts.

SEC. 104. Any costs incurred by a department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 105. The requirements set forth by section 112 of division B of Public Law 110–161 are hereby adopted by reference.

SEC. 106. Notwithstanding any other law, the Secretary may furnish services (including but not limited to utilities, telecommunications, and security services) necessary to support the operation, maintenance, and improvement of space that persons, firms or organizations are authorized pursuant to the Public Buildings Cooperative Use Act of 1976 or other authority to use or occupy in the Herbert C. Hoover Building, Washington, DC, or other buildings, the maintenance, operation, and protection of which has been delegated to the Secretary from the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949, as amended, on a reimbursable or non-reimbursable basis. Amounts received as reimbursement for services provided under this section or the authority under which the use or occupancy of the space is authorized, up to $200,000, shall be credited to the appropriation or fund which initially bears the costs of such services.

SEC. 107. With the consent of the President, the Secretary of Commerce shall represent the United States Government in negotiating and monitoring international agreements regarding fisheries, marine mammals, or sea turtles: Provided, That the Secretary of Commerce shall be responsible for the development and interdepartmental coordination of the policies of the United States with respect to the international negotiations and agreements referred to in this section.

SEC. 108. Section 101(k) of the Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note) is amended by striking ''2009'' and inserting ''2011''.

SEC. 109. Nothing in this title shall be construed to prevent a grant recipient from deterring child pornography, copyright infringement, or any other unlawful activity over its networks.

SEC. 110. The National Marine Fisheries Service is authorized to accept land, buildings, equipment, and other contributions including funding, from public and private sources, which shall be available until expended without further appropriation to conduct work associated with existing authorities.

This title may be cited as the ''Department of Commerce Appropriations Act, 2010''.

TITLE II

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $118,488,000, of which not to exceed $4,000,000 for security and construction of Department of Justice facilities shall remain available until expended: Provided, That the Attorney General is authorized to transfer funds appropriated within General Administration to any office in this account: Provided further, That $18,693,000 is for Department Leadership; $8,101,000 is for Intergovernmental Relations/External Affairs; $12,715,000 is for Executive Support/Professional Responsibility; and $78,979,000 is for the Justice Management Division: Provided further, That any change in amounts specified in the preceding proviso greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations consistent with the terms of section 505 of this Act: Provided further, That this transfer authority is in addition to transfers authorized under section 505 of this Act.

JUSTICE INFORMATION SHARING TECHNOLOGY

For necessary expenses for information sharing technology, including planning, development, deployment and departmental direction, $95,000,000, to remain available until expended, of which $21,132,000 is for the unified financial management system.

TACTICAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS

For the costs of developing and implementing a nation-wide Integrated Wireless Network supporting Federal law enforcement communications, and for the costs of operations and maintenance of existing Land Mobile Radio legacy systems, $206,143,000, to remain available until expended: Provided, That the Attorney General shall transfer to this account all funds made available to the Department of Justice for the purchase of portable and mobile radios: Provided further, That any transfer made under the preceding proviso shall be subject to section 505 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, $300,685,000, of which $4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the ''Immigration Examinations Fee'' account.

DETENTION TRUSTEE

For necessary expenses of the Federal Detention Trustee, $1,438,663,000, to remain available until expended: Provided, That the Trustee shall be responsible for managing the Justice Prisoner and Alien Transportation System: Provided further, That not to exceed $5,000,000 shall be considered ''funds appropriated for State and local law enforcement assistance'' pursuant to 18 U.S.C. 4013(b).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $84,368,000, including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, of which $2,000,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized, $12,859,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, $875,097,000, of which $2,500,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; and of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: Provided, That of the total amount appropriated, not to exceed $10,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: Provided further, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to ''Salaries and Expenses, General Legal Activities'' from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: Provided further, That of the amount appropriated, such sums as may be necessary shall be available to reimburse the Office of Personnel Management for salaries and expenses associated with the election monitoring program under section 8 of the Voting Rights Act of 1965 (42 U.S.C. 1973f): Provided further, That of the amounts provided under this heading for the election monitoring program $3,390,000 shall remain available until expended.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $7,833,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $163,170,000, to remain available until expended: Provided, That notwithstanding any other provision of law, fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection (and estimated to be $102,000,000 in fiscal year 2010), shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2010, so as to result in a final fiscal year 2010 appropriation from the general fund estimated at $61,170,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including inter-governmental and cooperative agreements, $1,926,003,000: Provided, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $25,000,000 shall remain available until expended: Provided further, That of the amount provided under this heading, not less than $36,980,000 shall be used for salaries and expenses for assistant U.S. Attorneys to carry out section 704 of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) concerning the prosecution of offenses relating to the sexual exploitation of children.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized, $224,488,000, to remain available until expended and to be derived from the United States Trustee System Fund: Provided, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, $210,000,000 of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: Provided further, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2010, so as to result in a final fiscal year 2010 appropriation from the Fund estimated at $9,488,000.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by section 3109 of title 5, United States Code, $2,117,000.

FEES AND EXPENSES OF WITNESSES

For fees and expenses of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, including advances, and for expenses of foreign counsel, $168,300,000, to remain available until expended: Provided, That not to exceed $10,000,000 may be made available for construction of buildings for protected witness safesites: Provided further, That not to exceed $3,000,000 may be made available for the purchase and maintenance of armored and other vehicles for witness security caravans: Provided further, That not to exceed $11,000,000 may be made available for the purchase, installation, maintenance, and upgrade of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, $11,479,000: Provided, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict resolution and violence prevention activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(B), (F), and (G), $20,990,000, to be derived from the Department of Justice Assets Forfeiture Fund.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Marshals Service, $1,125,763,000; of which not to exceed $30,000 shall be available for official reception and representation expenses; of which not to exceed $4,000,000 shall remain available until expended for information technology systems.

CONSTRUCTION

For construction in space controlled, occupied or utilized by the United States Marshals Service for prisoner holding and related support, $26,625,000, to remain available until expended; and of which not less than $12,625,000 shall be available for the costs of courthouse security equipment, including furnishings, relocations, and telephone systems and cabling.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

For expenses necessary to carry out the activities of the National Security Division, $87,938,000; of which not to exceed $5,000,000 for information technology systems shall remain available until expended: Provided, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for the activities of the National Security Division, the Attorney General may transfer such amounts to this heading from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the identification, investigation, and prosecution of individuals associated with the most significant drug trafficking and affiliated money laundering organizations not otherwise provided for, to include inter-governmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $515,000,000, of which $50,000,000 shall remain available until expended: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; $7,668,622,000, of which $101,066,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; and of which not to exceed $150,000,000 shall remain available until expended: Provided, That not to exceed $205,000 shall be available for official reception and representation expenses: Provided further, That notwithstanding section 205 of this Act, the Director of the Federal Bureau of Investigation, upon a determination that additional funding is necessary to carry out construction of the Biometrics Technology Center, may transfer from amounts available for ''Salaries and Expenses'' to amounts available for ''Construction'' up to $30,000,000 in fees collected to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs: Provided further, That any transfer made pursuant to the previous proviso shall be subject to section 505 of this Act.

CONSTRUCTION

For all necessary expenses, to include the cost of equipment, furniture, and information technology requirements, related to construction or acquisition of buildings, facilities and sites by purchase, or as otherwise authorized by law; conversion, modification and extension of federally owned buildings; and preliminary planning and design of projects; $244,915,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character pursuant to 28 U.S.C. 530C; and expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs, $2,014,682,000; of which $10,000,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; and of which not to exceed $75,000,000 shall remain available until expended; and of which not to exceed $100,000 shall be available for official reception and representation expenses.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives, not to exceed $40,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and for provision of laboratory assistance to State and local law enforcement agencies, with or without reimbursement, $1,114,772,000, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by section 924(d)(2) of title 18, United States Code; and of which $10,000,000 shall remain available until expended: Provided, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of Justice, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: Provided further, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 478.118 or to change the definition of ''Curios or relics'' in 27 CFR 478.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: Provided further, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): Provided further, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under section 925(c) of title 18, United States Code: Provided further, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco, Firearms and Explosives to other agencies or Departments in fiscal year 2010: Provided further, That, beginning in fiscal year 2010 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, tribal, or foreign law enforcement agency, or a Federal, State, or local prosecutor; or (2) a foreign law enforcement agency solely in connection with or for use in a criminal investigation or prosecution; or solely in connection with and for use in a criminal investigation or prosecution; or (3) a Federal agency for a national security or intelligence purpose; unless such disclosure of such date to any of the entities described in (1), (2) or (3) of this proviso would compromise the identity of any undercover law enforcement officer or confidential informant, or interfere with any case under investigation; and no person or entity described in (1), (2) or (3) shall knowingly or publicly disclose such data; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations: Provided further, That no funds made available by this or any other Act shall be expended to promulgate or implement any rule requiring a physical inventory of any business licensed under section 923 of title 18, United States Code: Provided further, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code: Provided further, That no funds authorized or made available under this or any other Act may be used to deny any application for a license under section 923 of title 18, United States Code, or renewal of such a license due to a lack of business activity, provided that the applicant is otherwise eligible to receive such a license, and is eligible to report business income or to claim an income tax deduction for business expenses under the Internal Revenue Code of 1986.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites to purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally owned buildings; and preliminary planning and design of projects; $6,000,000, to remain until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Federal Prison System for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 831, of which 743 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $5,979,831,000, of which $10,500,000 is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: Provided, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That the Director of the Federal Prison System, where necessary, may enter into contracts with a fiscal agent or fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the Federal Prison System, furnish health services to individuals committed to the custody of the Federal Prison System: Provided further, That not to exceed $6,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $50,000,000 shall remain available for necessary operations until September 30, 2011: Provided further, That, of the amounts provided for contract confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note), for the care and security in the United States of Cuban and Haitian entrants: Provided further, That the Director of the Federal Prison System may accept donated property and services relating to the operation of the prison card program from a not-for-profit entity which has operated such program in the past notwithstanding the fact that such not-for-profit entity furnishes services under contracts to the Federal Prison System relating to the operation of pre-release services, halfway houses, or other custodial facilities.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $99,155,000, to remain available until expended, of which not less than $73,769,000 shall be available only for modernization, maintenance and repair, and of which not to exceed $14,000,000 shall be available to construct areas for inmate work programs: Provided, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,700,000 of the funds of the Federal Prison Industries, Incorporated shall be available for its administrative expenses, and for services as authorized by section 3109 of title 5, United States Code, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which such accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

For grants, contracts, cooperative agreements, and other assistance for the prevention and prosecution of violence against women, as authorized by the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) (''the 1968 Act''); the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (''the 1994 Act''); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (''the 1990 Act''); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) (''the 1974 Act''); the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) (''the 2000 Act''); and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); and for related victims services, $435,000,000, to remain available until expended: Provided, That except as otherwise provided by law, not to exceed 3 percent of funds made available under this heading may be used for expenses related to evaluation, training, and technical assistance: Provided further, That of the amount provided (which shall be by transfer, for programs administered by the Office of Justice Programs)—

(1) $15,000,000 for the court-appointed special advocate program, as authorized by section 217 of the 1990 Act;

(2) $2,500,000 for child abuse training programs for judicial personnel and practitioners, as authorized by section 222 of the 1990 Act;

(3) $200,000,000 for grants to combat violence against women, as authorized by part T of the 1968 Act, of which—

(A) $18,000,000 shall be for transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by section 40299 of the 1994 Act; and

(B) $2,000,000 shall be for the National Institute of Justice for research and evaluation of violence against women and related issues addressed by grant programs of the Office on Violence Against Women;

(4) $60,000,000 for grants to encourage arrest policies as authorized by part U of the 1968 Act;

(5) $15,000,000 for sexual assault victims assistance, as authorized by section 41601 of the 1994 Act;

(6) $41,000,000 for rural domestic violence and child abuse enforcement assistance grants, as authorized by section 40295 of the 1994 Act;

(7) $3,000,000 for training programs as authorized by section 40152 of the 1994 Act, and for related local demonstration projects;

(8) $3,000,000 for grants to improve the stalking and domestic violence databases, as authorized by section 40602 of the 1994 Act;

(9) $9,500,000 for grants to reduce violent crimes against women on campus, as authorized by section 304 of the 2005 Act;

(10) $45,000,000 for legal assistance for victims, as authorized by section 1201 of the 2000 Act;

(11) $4,250,000 for enhanced training and services to end violence against and abuse of women in later life, as authorized by section 40802 of the 1994 Act;

(12) $14,000,000 for the safe havens for children program, as authorized by section 1301 of the 2000 Act;

(13) $6,750,000 for education and training to end violence against and abuse of women with disabilities, as authorized by section 1402 of the 2000 Act;

(14) $3,000,000 for an engaging men and youth in prevention program, as authorized by section 41305 of the 1994 Act;

(15) $1,000,000 for analysis and research on violence against Indian women, as authorized by section 904 of the 2005 Act;

(16) $1,000,000 for tracking of violence against Indian women, as authorized by section 905 of the 2005 Act;

(17) $3,500,000 for services to advocate and respond to youth, as authorized by section 41201 of the 1994 Act;

(18) $3,000,000 for grants to assist children and youth exposed to violence, as authorized by section 41303 of the 1994 Act;

(19) $3,000,000 for the court training and improvements program, as authorized by section 41002 of the 1994 Act;

(20) $500,000 for the National Resource Center on Workplace Responses to assist victims of domestic violence, as authorized by section 41501 of the 1994 Act; and

(21) $1,000,000 for grants for televised testimony, as authorized by part N of title I of the 1968 Act.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968; the Missing Children's Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Justice for All Act of 2004 (Public Law 108–405); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162); the Second Chance Act of 2007 (Public Law 110–199); the Victims of Child Abuse Act of 1990 (Public Law 101–647); the Victims of Crime Act of 1984 (Public Law 98–473); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248); the PROTECT Our Children Act of 2008 (Public Law 110–401); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107–296), which may include research and development; and other programs (including the Statewide Automated Victim Notification Program); $215,000,000, to remain available until expended, of which:

(1) $40,000,000 is for criminal justice statistics programs, pursuant to part C of the 1968 Act, of which $35,000,000 is for the National Crime Victimization Survey;

(2) $48,000,000 is for research, development, and evaluation programs;

(3) $12,000,000 is for the Statewide Victim Notification System of the Bureau of Justice Assistance;

(4) $45,000,000 is for the Regional Information System Sharing System, as authorized by part M of title I of the 1968 Act; and

(5) $70,000,000 is for the Missing Children's Program.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (''the 1994 Act''); the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''); the Justice for All Act of 2004 (Public Law 108–405); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (''the 1990 Act''); the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248); the Second Chance Act of 2007 (Public Law 110–199); and the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386); and other programs; $1,159,000,000, to remain available until expended as follows:

(1) $510,000,000 for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the 1968 Act, (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), of which $5,000,000 is for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement, $2,000,000 is for a program to improve State and local law enforcement intelligence capabilities including anti-terrorism training and training to ensure that constitutional rights, civil liberties, civil rights, and privacy interests are protected throughout the intelligence process, $10,000,000 is to support the Nationwide Pegasus Program in coordination with the National Sheriff's Association, for rural and non-urban law enforcement databases and connectivity to enhance information sharing technology capacity, and $10,000,000 is for implementation of a student loan repayment assistance program pursuant to section 952 of Public Law 110–315;

(2) $178,500,000 for discretionary grants to improve the functioning of the criminal justice system, to prevent or combat juvenile delinquency, and to assist victims of crime (other than compensation): Provided, That within the amounts appropriated, $178,500,000 shall be used for the projects, and in the amounts specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act;

(3) $40,000,000 for competitive grants to improve the functioning of the criminal justice system, to prevent or combat juvenile delinquency, and to assist victims of crime (other than compensation) of which $8,000,000 shall be available for the SMART Office activities and $2,000,0000 shall be available for grants to States and local law enforcement agencies as authorized by section 5 of Public Law 110–344;

(4) $2,000,000 for the purposes described in the Missing Alzheimer's Disease Patient Alert Program (section 240001 of the 1994 Act);

(5) $15,000,000 for victim services programs for victims of trafficking, as authorized by section 107(b)(2) of Public Law 106–386 and for programs authorized under Public Law 109–164;

(6) $40,000,000 for Drug Courts, as authorized by section 1001(25)(A) of title I of the 1968 Act;

(7) $5,000,000 for prison rape prevention and prosecution and other programs, as authorized by the Prison Rape Elimination Act of 2003 (Public Law 108–79);

(8) $20,000,000 for grants for Residential Substance Abuse Treatment for State Prisoners, as authorized by part S of title I of the 1968 Act;

(9) $50,000,000 for offender re-entry programs, as authorized by the Second Chance Act of 2007 (Public Law 110–199), of which $25,000,000 is for grants for adult and juvenile offender State, tribal and local reentry demonstration projects, $15,000,000 is for grants for mentoring and transitional services and $5,000,000 is for family-based substance abuse treatment;

(10) $5,500,000 for the Capital Litigation Improvement Grant Program, as authorized by section 426 of Public Law 108–405;

(11) $10,000,000 for mental health courts and adult and juvenile collaboration program grants, as authorized by parts V and HH of title I of the 1968 Act, and the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008 (Public Law 110–416);

(12) $30,000,000 for assistance to Indian tribes, of which—

(A) $10,000,000 shall be available for grants under section 20109 of subtitle A of title II of the 1994 Act;

(B) $10,000,000 shall be available for the Tribal Courts Initiative;

(C) $7,000,000 shall be available for tribal alcohol and substance abuse reduction assistance grants; and

(D) $3,000,000 shall be available for training and technical assistance and civil and criminal legal assistance as authorized by title I of Public Law 106–559;

(13) $228,000,000 for the State Criminal Alien Assistance Program, as authorized by section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)); and

(14) $25,000,000 for the Border Prosecutor Initiative to reimburse State, county, parish, tribal, or municipal governments for costs associated with the prosecution of criminal cases declined by local offices of the United States Attorneys: Provided, That no less than $20,000,000 shall be for prosecution efforts on the Southern border: Provided further, That no less than $5,000,000 shall be for prosecution efforts on the Northern border:

Provided, That, if a unit of local government uses any of the funds made available under this heading to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Office of Weed and Seed Strategies, $20,000,000, to remain available until expended, as authorized by section 103 of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974 (''the 1974 Act''), the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162), the Missing Children's Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Victims of Child Abuse Act of 1990 (Public Law 101–647); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248); the PROTECT Our Children Act of 2008 (Public Law 110–401), and other juvenile justice programs, $407,000,000, to remain available until expended as follows:

(1) $75,000,000 for programs authorized by section 221 of the 1974 Act, and for training and technical assistance to assist small, non-profit organizations with the Federal grants process: Provided, That no less than $5,000,000 shall be for the Safe Start Program, as authorized by the 1974 Act;

(2) $82,000,000 for grants and projects, as authorized by sections 261 and 262 of the 1974 Act: Provided, That within the amounts appropriated, $82,000,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act;

(3) $100,000,000 for youth mentoring grants;

(4) $65,000,000 for delinquency prevention, as authorized by section 505 of the 1974 Act, of which, pursuant to sections 261 and 262 thereof—

(A) $25,000,000 shall be for the Tribal Youth Program;

(B) $10,000,000 shall be for a gang education initiative; and

(C) $25,000,000 shall be for grants of $360,000 to each State and $4,840,000 shall be available for discretionary grants, for programs and activities to enforce State laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, for prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training;

(5) $25,000,000 for programs authorized by the Victims of Child Abuse Act of 1990; and

(6) $60,000,000 for the Juvenile Accountability Block Grants program as authorized by part R of title I of the 1968 Act and Guam shall be considered a State:

Provided, That not more than 10 percent of each amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized: Provided further, That not more than 2 percent of each amount may be used for training and technical assistance: Provided further, That the previous two provisos shall not apply to grants and projects authorized by sections 261 and 262 of the 1974 Act.

PUBLIC SAFETY OFFICER BENEFITS

For payments and expenses authorized under section 1001(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), such sums as are necessary (including amounts for administrative costs, which amounts shall be paid to the ''Salaries and Expenses'' account); and $5,000,000 for payments authorized by section 1201(b) of such Act; and $4,100,000 for educational assistance, as authorized by section 1218 of such Act, to remain available until expended.

COMMUNITY ORIENTED POLICING SERVICES

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322); the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107–296), which may include research and development; and the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177); the NICS Improvement Amendments Act of 2007 (Public Law 110–180); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) (the ''Adam Walsh Act''); and the Justice for All Act of 2004 (Public Law 108–405), $658,500,000, to remain available until expended: Provided, That any balances made available through prior year deobligations shall only be available in accordance with section 505 of this Act. Of the amount provided (which shall be by transfer, for programs administered by the Office of Justice Programs)—

(1) $30,000,000 for the matching grant program for law enforcement armor vests, as authorized by section 2501 of title I of the 1968 Act: Provided, That $1,500,000 is transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards from the Community Oriented Policing Services Office for research, testing, and evaluation programs;

(2) $39,500,000 for grants to entities described in section 1701 of title I of the 1968 Act, to address public safety and methamphetamine manufacturing, sale, and use in hot spots as authorized by section 754 of Public Law 109–177, and for other anti-methamphetamine-related activities: Provided, That within the amounts appropriated, $34,500,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act;

(3) $187,000,000 for a law enforcement technologies and interoperable communications program, and related law enforcement and public safety equipment: Provided, That within the amounts appropriated, $187,000,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act;

(4) $10,000,000 for grants to assist States and tribal governments as authorized by the NICS Improvements Amendments Act of 2007 (Public Law 110–180);

(5) $10,000,000 for grants to upgrade criminal records, as authorized under the Crime Identification Technology Act of 1998 (42 U.S.C. 14601);

(6) $166,000,000 for DNA related and forensic programs and activities as follows:

(A) $151,000,000 for a DNA analysis and capacity enhancement program and for other local, State, and Federal forensic activities including the purposes of section 2 of the DNA Analysis Backlog Elimination Act of 2000 (the Debbie Smith DNA Backlog Grant Program);

(B) $5,000,000 for the purposes described in the Kirk Bloodsworth Post-Conviction DNA Testing Program (Public Law 108–405, section 412);

(C) $5,000,000 for Sexual Assault Forensic Exam Program Grants as authorized by Public Law 108–405, section 304; and

(D) $5,000,000 for DNA Training and Education for Law Enforcement, Correctional Personnel, and Court Officers as authorized by Public Law 108–405, section 303;

(7) $20,000,000 for improving tribal law enforcement, including equipment and training;

(8) $15,000,000 for programs to reduce gun crime and gang violence;

(9) $10,000,000 for training and technical assistance;

(10) $20,000,000 for a national grant program the purpose of which is to assist State and local law enforcement to locate, arrest and prosecute child sexual predators and exploiters, and to enforce sex offender registration laws described in section 1701(b) of the 1968 Act, of which:

(A) $5,000,000 for sex offender management assistance as authorized by the Adam Walsh Act and the Violent Crime Control Act of 1994 (Public Law 103–322); and

(B) $1,000,000 for the National Sex Offender Public Registry;

(11) $16,000,000 for expenses authorized by part AA of the 1968 Act (Secure our Schools);

(12) $35,000,000 for Paul Coverdell Forensic Science Improvement Grants under part BB of title I of the 1968 Act; and

(13) $100,000,000 for grants under section 1701 of title I of the 1968 Act (42 U.S.C. 3796dd) for the hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsections (g) and (i) of such section and notwithstanding 42 U.S.C. 3796dd–3(c).

SALARIES AND EXPENSES

For necessary expenses, not elsewhere specified in this title, for management and administration of programs within the Office on Violence Against Women, the Office of Justice Programs and the Community Oriented Policing Services Office, $179,000,000, of which not to exceed $15,708,000 shall be available for the Office on Violence Against Women; not to exceed $125,830,000 shall be available for the Office of Justice Programs; not to exceed $37,462,000 shall be available for the Community Oriented Policing Services Office: Provided, That, notwithstanding section 109 of title I of Public Law 90–351, an additional amount, not to exceed $21,000,000 shall be available for authorized activities of the Office of Audit, Assessment, and Management: Provided further, That the total amount available for management and administration of such programs shall not exceed $200,000,000.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses.

SEC. 202. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 203. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 204. Nothing in the preceding section shall remove the obligation of the Director of the

Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 203 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 206. The Attorney General is authorized to extend through September 30, 2011, the Personnel Management Demonstration Project transferred to the Attorney General pursuant to section 1115 of the Homeland Security Act of 2002, Public Law 107–296 (6 U.S.C. 533) without limitation on the number of employees or the positions covered.

SEC. 207. Notwithstanding any other provision of law, Public Law 102–395 section 102(b) shall extend to the Bureau of Alcohol, Tobacco, Firearms and Explosives in the conduct of undercover investigative operations and shall apply without fiscal year limitation with respect to any undercover investigative operation by the Bureau of Alcohol, Tobacco, Firearms and Explosives that is necessary for the detection and prosecution of crimes against the United States.

SEC. 208. None of the funds made available to the Department of Justice in this Act may be used for the purpose of transporting an individual who is a prisoner pursuant to conviction for crime under State or Federal law and is classified as a maximum or high security prisoner, other than to a prison or other facility certified by the Federal Bureau of Prisons as appropriately secure for housing such a prisoner.

SEC. 209. (a) None of the funds appropriated by this Act may be used by Federal prisons to purchase cable television services, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreational purposes.

(b) The preceding sentence does not preclude the renting, maintenance, or purchase of audiovisual or electronic equipment for inmate training, religious, or educational programs.

SEC. 210. None of the funds made available under this title shall be obligated or expended for Sentinel, or for any other major new or enhanced information technology program having total estimated development costs in excess of $100,000,000, unless the Deputy Attorney General and the investment review board certify to the Committees on Appropriations that the information technology program has appropriate program management and contractor oversight mechanisms in place, and that the program is compatible with the enterprise architecture of the Department of Justice.

SEC. 211. The notification thresholds and procedures set forth in section 505 of this Act shall apply to deviations from the amounts designated for specific activities in this Act and accompanying statement, and to any use of deobligated balances of funds provided under this title in previous years.

SEC. 212. None of the funds appropriated by this Act may be used to plan for, begin, continue, finish, process, or approve a public-private competition under the Office of Management and Budget Circular A–76 or any successor administrative regulation, directive, or policy for work performed by employees of the Bureau of Prisons or of Federal Prison Industries, Incorporated.

SEC. 213. Notwithstanding any other provision of law, no funds shall be available for the salary, benefits, or expenses of any United States Attorney assigned dual or additional responsibilities by the Attorney General or his designee that exempt that United States Attorney from the residency requirements of 28 U.S.C. 545.

SEC. 214. None of the funds appropriated in this or any other Act shall be obligated for the initiation of a future phase of the Federal Bureau of Investigation's Sentinel program until the Attorney General certifies to the Committees on Appropriations that existing phases currently under contract for development or fielding have completed a majority of the work for that phase under the performance measurement baseline validated by the integrated baseline review conducted in 2008: Provided, That this restriction does not apply to planning and design activities for future phases: Provided further, That the Bureau will notify the Committees on Appropriations of any significant changes to the baseline.

SEC. 215. In addition to any amounts that otherwise may be available (or authorized to be made available) by law, with respect to funds appropriated by this Act under the headings ''Justice Assistance'', ''State and Local Law Enforcement Assistance'', ''Weed and Seed'', ''Juvenile Justice Programs'', and ''Community Oriented Policing Services''—

(1) Up to 3 percent of funds made available to the Office of Justice Programs for grants or reimbursement may be used to provide training and technical assistance; and

(2) Up to 1 percent of funds made available to such Office for formula grants under such headings may be used for research or statistical purposes by the National Institute of Justice or the Bureau of Justice Statistics, pursuant to, respectively, sections 201 and 202, and sections 301 and 302 of title I of Public Law 90–351.

SEC. 216. Section 5759(e) of title 5, United States Code, is amended by striking subsection (e).

SEC. 217. (a) The Attorney General shall submit quarterly reports to the Inspector General of the Department of Justice regarding the costs and contracting procedures relating to each conference held by the Department of Justice during fiscal year 2010 for which the cost to the Government was more than $20,000.

(b) Each report submitted under subsection (a) shall include, for each conference described in that subsection held during the applicable quarter—

(1) a description of the subject of and number of participants attending that conference;

(2) a detailed statement of the costs to the Government relating to that conference, including—

(A) the cost of any food or beverages;

(B) the cost of any audio-visual services; and

(C) a discussion of the methodology used to determine which costs relate to that conference; and

(3) a description of the contracting procedures relating to that conference, including—

(A) whether contracts were awarded on a competitive basis for that conference; and

(B) a discussion of any cost comparison conducted by the Department of Justice in evaluating potential contractors for that conference.

SEC. 218. (a) Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end of the following:

''§5761. Foreign language proficiency pay awards for the Federal Bureau of Investigation

''The Director of the Federal Bureau of Investigation may, under regulations prescribed by the Director, pay a cash award of up to 10 percent of basic pay to any Bureau employee who maintains proficiency in a language or languages critical to the mission or who uses one or more foreign languages in the performance of official duties.''.

(b) The analysis for chapter 57 of title 5, United States Code, is amended by adding at the end the following:

''5761. Foreign language proficiency pay awards for the Federal Bureau of Investigation.''

SEC. 219. The Attorney General is authorized to waive the application of 42 U.S.C. 3755(d)(2)(A) with respect to grants made to units of local government pursuant to 42 U.S.C. 3755(d)(1), if such units of local government were eligible to receive such grants under the transitional rule in 42 U.S.C. 3755(d)(2)(B).

This title may be cited as the ''Department of Justice Appropriations Act, 2010''.

TITLE III

SCIENCE

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601–6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $6,154,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

For necessary expenses, not otherwise provided for, in the conduct and support of science research and development activities, including research, development, operations, support, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $4,517,000,000, to remain available until September 30, 2011.

AERONAUTICS

For necessary expenses, not otherwise provided for, in the conduct and support of aeronautics research and development activities, including research, development, operations, support, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $507,000,000, to remain available until September 30, 2011.

EXPLORATION

For necessary expenses, not otherwise provided for, in the conduct and support of exploration research and development activities, including research, development, operations, support, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight,

spacecraft control, and communications activities; program management, personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $3,940,400,000, to remain available until September 30, 2011.

SPACE OPERATIONS

For necessary expenses, not otherwise provided for, in the conduct and support of space operations research and development activities, including research, development, operations, support and services; space flight, spacecraft control and communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $6,161,600,000, to remain available until September 30, 2011.

EDUCATION

For necessary expenses, not otherwise provided for, in carrying out aerospace and aeronautical education research and development activities, including research, development, operations, support, and services; program management; personnel and related costs, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $140,100,000, to remain available until September 30, 2011.

CROSS AGENCY SUPPORT

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics, exploration, space operations and education research and development activities, including research, development, operations, support, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed $70,000 for official reception and representation expenses; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $3,383,500,000, to remain available until September 30, 2011: Provided, That within the amounts appropriated $47,000,000 shall be used for the projects, and in the amounts, specified in the table entitled ''Congressionally designated projects'' in the report of the Committee on Appropriations of the Senate to accompany this Act.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, $36,400,000, to remain available until September 30, 2011.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the duration of availability of funds appropriated to the National Aeronautics and Space Administration for any account in this Act, except for ''Office of Inspector General'', when any activity has been initiated by the incurrence of obligations for environmental compliance and restoration activities as authorized by law, such amount available for such activity shall remain available until expended.

Notwithstanding the limitation on the availability of funds appropriated to the National Aeronautics and Space Administration for any account in this Act, except for ''Office of Inspector General'', the amounts appropriated for construction of facilities shall remain available until September 30, 2014.

Funds for announced prizes otherwise authorized shall remain available, without fiscal year limitation, until the prize is claimed or the offer is withdrawn.

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the National Aeronautics and Space Administration in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers. Any transfer pursuant to this provision shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

Notwithstanding any other provision of law, no funds shall be used to implement any Reduction in Force or other involuntary separations (except for cause) by the National Aeronautics and Space Administration prior to September 30, 2010.

The unexpired balances of the Science, Aeronautics, and Exploration account, for activities for which funds are provided under this Act, may be transferred to the new accounts established in this Act that provide such activity. Balances so transferred shall be merged with the funds in the newly established accounts, but shall be available under the same terms, conditions and period of time as previously appropriated.

Funding designations and minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this title for the National Aeronautics and Space Administration.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; and authorized travel; $5,618,000,000, to remain available until September 30, 2011, of which not to exceed $570,000,000 shall remain available until expended for polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program: Provided, That from funds specified in the fiscal year 2010 budget request for icebreaking services, $54,000,000 shall be transferred to the U.S. Coast Guard ''Operating Expenses'': Provided further, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That not less than $147,800,000 shall be available for activities authorized by section 7002(c)(2)(A)(iv) of Public Law 110–69.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For necessary expenses for the acquisition, construction, commissioning, and upgrading of major research equipment, facilities, and other such capital assets pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including authorized travel, $122,290,000, to remain available until expended.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109, authorized travel, and rental of conference rooms in the District of Columbia, $857,760,000, to remain available until September 30, 2011: Provided, That not less than $55,000,000 shall be available until expended for activities authorized by section 7030 of Public Law 110–69.

AGENCY OPERATIONS AND AWARD MANAGEMENT

For agency operations and award management necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; and reimbursement of the Department of Homeland Security for security guard services; $300,370,000: Provided, That contracts may be entered into under this heading in fiscal year 2010 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF THE NATIONAL SCIENCE BOARD

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, and the employment of experts and consultants under section 3109 of title 5, United States Code) involved in carrying out section 4 of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1863) and Public Law 86–209 (42 U.S.C. 1880 et seq.), $4,340,000: Provided, That not to exceed $2,500 shall be available for official reception and representation expenses.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $14,000,000.

This title may be cited as the ''Science Appropriations Act, 2010''.

TITLE IV

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $9,400,000: Provided, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: Provided further, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson, who is permitted 125 billable days.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Genetic Information Non-Discrimination Act (GINA) of 2008 (Public Law 110–23); the ADA Amendments Act of 2008 (Public Law 110–325), and the Lilly Ledbetter Fair Pay Act of 2009 (Public Law 111–2), including services as authorized by 5 U.S.C. 3109; hire of passenger

motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; and not to exceed $30,000,000 for payments to State and local enforcement agencies for authorized services to the Commission, $367,303,000: Provided, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds: Provided further, That the Commission may take no action to implement any workforce repositioning, restructuring, or reorganization until such time as the House and Senate Committees on Appropriations have been notified of such proposals, in accordance with the reprogramming requirements of section 505 of this Act: Provided further, That the Chair is authorized to accept and use any gift or donation to carry out the work of the Commission.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $82,700,000, to remain available until expended.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, $400,000,000, of which $374,600,000 is for basic field programs and required independent audits; $4,000,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; $17,000,000 is for management and grants oversight; $3,400,000 is for client self-help and information technology; and $1,000,000 is for loan repayment assistance: Provided, That the Legal Services Corporation may continue to provide locality pay to officers and employees at a rate no greater than that provided by the Federal Government to Washington, DC-based employees as authorized by 5 U.S.C. 5304, notwithstanding section 1005(d) of the Legal Services Corporation Act, 42 U.S.C. 2996(d).

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105–119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to 2009 and 2010, respectively.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, $3,250,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $48,326,000, of which $1,000,000 shall remain available until expended: Provided, That not to exceed $124,000 shall be available for official reception and representation expenses: Provided further, That negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties: Provided further, That negotiations shall be conducted within the World Trade Organization consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107–210 to maintain strong U.S. remedies laws, correct the problem of overreaching by World Trade Organization Panels and Appellate Body, and prevent the creation of obligation never negotiated or expressly agreed to by the United States.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701 et. seq.) $5,000,000, of which $500,000 shall remain available until September 30, 2011: Provided, That not to exceed $3,000 shall be available for official reception and representation expenses.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 505. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2009, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through the reprogramming of funds that:

(1) creates or initiates a new program, project or activity;

(2) eliminates a program, project or activity, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by this Act, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(4) relocates an office or employees, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(5) reorganizes or renames offices, programs or activities, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(6) contracts out or privatizes any functions or activities presently performed by Federal employees, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(7) proposes to use funds directed for a specific activity by either the House or Senate Committee on Appropriations for a different purpose, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(8) augments funds for existing programs, projects or activities in excess of $500,000 or 10 percent, whichever is less, or reduces by 10 percent funding for any program, project or activity, or numbers of personnel by 10 percent as approved by Congress, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds; or

(9) results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, projects or activities as approved by Congress, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2010, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through the reprogramming of funds after August 1, except in extraordinary circumstances, and only after the House and Senate Committees on Appropriations are notified 30 days in advance of such reprogramming of funds.

SEC. 506. Hereafter, none of the funds made available in this or any other Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 507. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 508. The Departments of Commerce and Justice, the National Science Foundation, and the National Aeronautics and Space Administration, shall provide to the House and Senate Committees on Appropriations a quarterly accounting of the cumulative balances of any unobligated funds that were received by such agency during any previous fiscal year.

SEC. 509. Any costs incurred by a department or agency funded under this Act resulting from, or to prevent, personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 510. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

SEC. 511. None of the funds appropriated pursuant to this Act or any other provision of law may be used for—

(1) the implementation of any tax or fee in connection with the implementation of subsection 922(t) of title 18, United States Code; and

(2) any system to implement subsection 922(t) of title 18, United States Code, that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm no more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law.

SEC. 512. None of the funds made available in this Act may be used to pay the salaries and expenses of personnel of the Department of Justice to obligate more than $705,000,000 during fiscal year 2010 from the fund established by section 1402 of chapter XIV of title II of Public Law 98–473 (42 U.S.C. 10601): Provided, That hereafter the availability of funds under section 1402(d)(3) to improve services shall be understood to mean availability for pay or salary, including benefits for the same.

SEC. 513. None of the funds made available to the Department of Justice in this Act may be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

SEC. 514. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 515. Any funds provided in this Act used to implement E-Government Initiatives shall be subject to the procedures set forth in section 505 of this Act.

SEC. 516. (a) Tracing studies conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives are released without adequate disclaimers regarding the limitations of the data.

(b) The Bureau of Alcohol, Tobacco, Firearms and Explosives shall include in all such data releases, language similar to the following that would make clear that trace data cannot be used to draw broad conclusions about firearms-related crime:

(1) Firearm traces are designed to assist law enforcement authorities in conducting investigations by tracking the sale and possession of specific firearms. Law enforcement agencies may request firearms traces for any reason, and those reasons are not necessarily reported to the Federal Government. Not all firearms used in crime are traced and not all firearms traced are used in crime.

(2) Firearms selected for tracing are not chosen for purposes of determining which types, makes, or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe. Firearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime.

SEC. 517. (a) The Inspectors General of the Department of Commerce, the Department of Justice, the National Aeronautics and Space Administration, the National Science Foundation, and the Legal Services Corporation shall conduct audits, pursuant to the Inspector General Act (5 U.S.C. App.), of grants or contracts for which funds are appropriated by this Act, and shall submit reports to Congress on the progress of such audits, which may include preliminary findings and a description of areas of particular interest, within 180 days after initiating such an audit and every 180 days thereafter until any such audit is completed.

(b) Within 60 days after the date on which an audit described in subsection (a) by an Inspector General is completed, the Secretary, Attorney General, Administrator, Director, or President, as appropriate, shall make the results of the audit available to the public on the Internet website maintained by the Department, Administration, Foundation, or Corporation, respectively. The results shall be made available in redacted form to exclude—

(1) any matter described in section 552(b) of title 5, United States Code; and

(2) sensitive personal information for any individual, the public access to which could be used to commit identity theft or for other inappropriate or unlawful purposes.

(c) A grant or contract funded by amounts appropriated by this Act may not be used for the purpose of defraying the costs of a banquet or conference that is not directly and programmatically related to the purpose for which the grant or contract was awarded, such as a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.

(d) Any person awarded a grant or contract funded by amounts appropriated by this Act shall submit a statement to the Secretary of Commerce, the Attorney General, the Administrator, Director, or President, as appropriate, certifying that no funds derived from the grant or contract will be made available through a subcontract or in any other manner to another person who has a financial interest in the person awarded the grant or contract.

(e) The provisions of the preceding subsections of this section shall take effect 30 days after the date on which the Director of the Office of Management and Budget, in consultation with the Director of the Office of Government Ethics, determines that a uniform set of rules and requirements, substantially similar to the requirements in such subsections, consistently apply under the executive branch ethics program to all Federal departments, agencies, and entities.

SEC. 518. None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism.

SEC. 519. None of the funds made available in this Act shall be used in any way whatsoever to support or justify the use of torture by any official or contract employee of the United States Government.

SEC. 520. (a) Notwithstanding any other provision of law or treaty, none of the funds appropriated or otherwise made available under this Act or any other Act may be expended or obligated by a department, agency, or instrumentality of the United States to pay administrative expenses or to compensate an officer or employee of the United States in connection with requiring an export license for the export to Canada of components, parts, accessories or attachments for firearms listed in Category I, section 121.1 of title 22, Code of Federal Regulations (International Trafficking in Arms Regulations (ITAR), part 121, as it existed on April 1, 2005) with a total value not exceeding $500 wholesale in any transaction, provided that the conditions of subsection (b) of this section are met by the exporting party for such articles.

(b) The foregoing exemption from obtaining an export license—

(1) does not exempt an exporter from filing any Shipper's Export Declaration or notification letter required by law, or from being otherwise eligible under the laws of the United States to possess, ship, transport, or export the articles enumerated in subsection (a); and

(2) does not permit the export without a license of—

(A) fully automatic firearms and components and parts for such firearms, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada;

(B) barrels, cylinders, receivers (frames) or complete breech mechanisms for any firearm listed in Category I, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada; or

(C) articles for export from Canada to another foreign destination.

(c) In accordance with this section, the District Directors of Customs and postmasters shall permit the permanent or temporary export without a license of any unclassified articles specified in subsection (a) to Canada for end use in Canada or return to the United States, or temporary import of Canadian-origin items from Canada for end use in the United States or return to Canada for a Canadian citizen.

(d) The President may require export licenses under this section on a temporary basis if the President determines, upon publication first in the Federal Register, that the Government of Canada has implemented or maintained inadequate import controls for the articles specified in subsection (a), such that a significant diversion of such articles has and continues to take place for use in international terrorism or in the escalation of a conflict in another nation. The President shall terminate the requirements of a license when reasons for the temporary requirements have ceased.

SEC. 521. Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States receiving appropriated funds under this Act or any other Act shall obligate or expend in any way such funds to pay administrative expenses or the compensation of any officer or employee of the United States to deny any application submitted pursuant to 22 U.S.C. 2778(b)(1)(B) and qualified pursuant to 27 CFR section 478.112 or .113, for a permit to import United States origin ''curios or relics'' firearms, parts, or ammunition.

SEC. 522. None of the funds made available in this Act may be used to include in any new bilateral or multilateral trade agreement the text of—

(1) paragraph 2 of article 16.7 of the United States-Singapore Free Trade Agreement;

(2) paragraph 4 of article 17.9 of the United States-Australia Free Trade Agreement; or

(3) paragraph 4 of article 15.9 of the United States-Morocco Free Trade Agreement.

SEC. 523. None of the funds made available in this Act may be used to authorize or issue a national security letter in contravention of any of the following laws authorizing the Federal Bureau of Investigation to issue national security letters: The Right to Financial Privacy Act; The Electronic Communications Privacy Act; The Fair Credit Reporting Act; The National Security Act of 1947; USA PATRIOT Act; and the laws amended by these Acts.

SEC. 524. If at any time during any quarter, the program manager of a project within the jurisdiction of the Departments of Commerce or Justice, the National Aeronautics and Space Administration, or the National Science Foundation totaling more than $75,000,000 has reasonable cause to believe that the total program cost has increased by 10 percent, the program manager shall immediately inform the Secretary, Administrator, or Director. The Secretary, Administrator, or Director shall notify the House and Senate Committees on Appropriations within 30 days in writing of such increase, and shall include in such notice: the date on which such determination was made; a statement of the reasons for such increases; the action taken and proposed to be taken to control future cost growth of the project; changes made in the performance or schedule milestones and the degree to which such changes have contributed to the increase in total program costs or procurement costs; new estimates of the total project or procurement costs; and a statement validating that the project's management structure is adequate to control total project or procurement costs.

SEC. 525. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence or intelligence related activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2010 until the enactment of

the Intelligence Authorization Act for fiscal year 2010.

SEC. 526. The Departments, agencies, and commissions funded under this Act, shall establish and maintain on the homepages of their Internet websites—

(1) a direct link to the Internet websites of their Offices of Inspectors General; and

(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions.

SEC. 527. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than $5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

SEC. 528. None of the funds appropriated or otherwise made available in this Act may be used in a manner that is inconsistent with the principal negotiating objective of the United States with respect to trade remedy laws to preserve the ability of the United States—

(1) to enforce vigorously its trade laws, including antidumping, countervailing duty, and safeguard laws;

(2) to avoid agreements that—

(A) lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies; or

(B) lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(3) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

SEC. 529. None of the funds made available in this Act may be used to purchase first class or premium airline travel in contravention of sections 301–10.122 through 301–10.124 of title 41 of the Code of Federal Regulations.

SEC. 530. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 employees from a Federal department or agency at any single conference occurring outside the United States.

(RESCISSIONS)

SEC. 531. (a) Of the unobligated balances available to the Department of Justice from prior appropriations, the following funds are hereby rescinded, not later than September 30, 2010, from the following accounts in the specified amounts:

(1) ''Legal Activities, Assets Forfeiture Fund'', $379,000,000, of which $136,000,000 shall be permanently rescinded and returned to the general fund;

(2) ''Office of Justice Programs'', $42,000,000; and

(3) ''Community Oriented Policing Services'', $40,000,000.

(b) The Department of Justice shall, within 30 days of enactment of this Act, submit to the Committee on Appropriations of the House of Representatives and the Senate a report specifying the amount of each rescission made pursuant to this section.

(c) The recissions contained in this section shall not apply to funds provided in this Act.

SEC. 532. Section 504(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (as contained in Public Law 104–134) is amended:

(1) in subsection (a), in the matter preceding paragraph (1), by inserting after ''(''' the following: ''that uses Federal funds (or funds from any source with regard to paragraphs (14) and (15)) in a manner'';

(2) by striking subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

This Act may be cited as the ''Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010''.

Mr. SHELBY. Mr. President, I am pleased to present, with Chairwoman MIKULSKI, the Commerce, Justice, Science, and Related Agencies Appropriation bill for fiscal year 2010.

First, I thank Senator MIKULSKI and her staff for their continued friendship and the hard work they have put into this bill.

This is truly the most diverse appropriations bill we have, literally affecting all the expanses of our planet and into the outer recesses of the universe.

It covers State and local law enforcement and counterterrorism efforts, oceanic and weather research, trade, standards research, and it keeps our Nation competitive through investment in science and space exploration.

This bill funds the Department of Justice and Commerce, as well as the National Aeronautics and Space Administration or NASA, the National Science Foundation or NSF; and a number of independent agencies, including the U.S. Trade Representative, the Legal Services Corporation, and International Trade Commission, to name a few.

Nothing is more important than the safety of the American people. The committee's recommendation this evening for the Department of Justice is $27.4 billion, which is $311 million over the request.

Senator MIKULSKI and I have worked to ensure that Federal, State, and local law enforcement agencies receive the funding needed to protect our citizens and our communities.

The Department of Commerce is funded in this bill at $14 billion, $254 million over the requested level. This department contains some of our Nation's most important business development, economic, science and research agencies, including the Economic Development Administration, which we know as the EDA, the National Institutes of Science and Technology or NIST, and the National Oceanic and Atmospheric Administration, which we call NOAA.

Senator MIKULSKI and I have attempted to expand the foundation for our Nation's economic future, as well as providing researchers with the tools to assess our weather, oceans, and environment.

Of the amount provided to the Department of Commerce in the bill before us, $7.3 billion is for the 2010 census and $4.8 billion for NOAA, an increase of $299 million over the request. These additional funds are directed toward research, observation, education, and conservation programs.

For NASA, this bill provides $18.7 billion to move forward with the Agency's current exploration vision, while fully funding the ongoing activities of the space shuttle and the International Space Station.

We are at a challenging point in time for the funding of NASA, particularly human spaceflight. As you well know, Mr. President, the space shuttle is successfully finishing the required deliveries to the space station in its few remaining flights. The International Space Station has a permanent crew of six, which will allow our astronauts to conduct science instead of just station upkeep.

We are also on the verge of having a test flight of the rockets being developed by NASA to once again take humans beyond low Earth orbit. As NASA moves toward retiring the shuttle and leaving the Nation without our own human launch vehicle, I believe we must continue to develop our own capabilities, not only for missions to the space station but for future expeditions as well.

While I commend the Augustine Commission for their hard work, I find many of the aspects proposed in their summary report to be unsatisfactory and perhaps disappointing.

I am baffled by NASA's path forward on the Constellation Program. This program is built on a foundation of proven technologies using existing capabilities and infrastructure. The Ares I team will soon launch the first test flight, and the groundwork for the Ares V heavy lift vehicle is well underway. And yet, instead of simply providing Constellation with funds to move forward, it is delaying the current mission while seeking to have a do-over on plans that have been authorized by both a Republican and Democratic Congress.

NASA and this administration should never forget that the support of Congress will still be necessary to authorize and provide funds as we move forward.

Given the challenges and high cost of access to space, I agree that it is beneficial for NASA to look at all viable options that could be provided by U.S. industries to support operations on the International Space Station and future exploration. However, we must do so, I believe, in a realistic way. NASA must support the program that has the greatest likelihood of success.

The benefits that our society has gained from the human spaceflight program are immeasurable. Almost every facet of our lives that we know today has been touched by discoveries with human spaceflight.

Beyond the direct tangible benefits, there is also the intangible benefit that comes with knowing that America is

leading the world in discovering and exploring new frontiers.

I will not support any future NASA budget request that does not have a robust human exploration program. It must be a program that inspires, yet is also a program grounded in what is possible and not wishful thinking.

If we no longer prioritize space exploration, we can be certain that others on this planet will. A number of the findings by the Augustine Commission would guarantee that other nations, such as Russia, China, and India, will be waving to us as they fly by the space station on their way to the Moon and other planets if we are not careful. We cannot cede our leadership in space, and we must have a viable human space exploration program.

As we are losing global market shares in most industries, we are still the world leader in human spaceflight. I will not support a NASA that squanders that lead, and I hope the Senate will not. Simply put, if that were to happen, I would not support a visionless NASA, and I do not believe the Congress would.

In conclusion, I thank again Senator MIKULSKI, the chairwoman of this committee, for her leadership on this bill. We have worked together on many issues throughout our years, both serving together in the House and the Senate, and this bill reflects our strong relationship. I ask my colleagues—as she will—to support this bill and to urge its swift passage this week.

Mr. CONRAD. Mr. President, I rise to offer for the record, the Budget Committee's official scoring of H.R. 2847, the Departments of Commerce and Justice, and Science, and Related Agencies Appropriations Act for fiscal year 2010.

The bill, as reported with an amendment by the Senate Committee on Appropriations, provides $64.9 billion in discretionary budget authority for fiscal year 2010, which will result in new outlays of $44.2 billion. When outlays from prior-year budget authority are taken into account, nonemergency discretionary outlays for the bill will total $71.2 billion.

The bill includes $126 million in budget authority designated as being for overseas deployments and other activities for national security programs at the Department of Justice. Pursuant to section 401(c)(4) of S. Con. Res. 13, the 2010 budget resolution, an adjustment to the 2010 discretionary spending limits and the Appropriations Committee's 302(a) allocation has been made for this amount in budget authority and for the outlays flowing therefrom.

The Senate-reported bill matches its Section 302(b) allocation for budget authority and for outlays.

The bill is not subject to any budget points of order.

I ask unanimous consent that the table displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

H.R. 2847, DEPARTMENTS OF COMMERCE AND JUSTICE, AND SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

[Spending comparisons—Senate-reported bill (in millions of dollars)]

	Defense	General purpose	Total
Senate-Reported Bill:			
Budget Authority	4,589	60,337	64,926
Outlays	4,690	66,515	71,205
Senate 302(b) Allocation:			
Budget Authority			64,926
Outlays			71,205
House-Passed Bill:			
Budget Authority	4,603	59,810	64,413
Outlays	4,701	65,960	70,661
President's Request:			
Budget Authority	4,608	60,004	64,612
Outlays	4,705	66,477	71,182
SENATE-REPORTED BILL COMPARED TO:			
Senate 302(b) allocation:			
Budget Authority	0	0	0
Outlays	0	0	0
House-Passed Bill:			
Budget Authority	−14	527	513
Outlays	−11	555	544
President's Request:			
Budget Authority	−19	333	314
Outlays	−15	38	23

Note: Table does not include 2010 outlays stemming from emergency budget authority provided in the 2009 Supplemental Appropriations Act (P.L. 111–32).

The Senate bill includes $126 M in budget authority designated as being for overseas deployments and other activities at the Department of Justice.

HONORING NEAL BOORTZ

Mr. CHAMBLISS. Mr. President, I rise today to congratulate a constituent from my home State of Georgia who is familiar to many of my colleagues, and that is radio talk show host Neal Boortz.

Next month, in November, after 40 years of airing his unique and often colorful opinions, skewering lawmakers and pending best-selling books, Neal Boortz will be inducted into the National Radio Hall of Fame.

Neal has been an Atlanta institution since his first foray into talk radio in 1969 on WRNG Radio. Since 1993, he has been holding forth on the airways of WSB-AM 750, a member of the Cox Broadcasting Group. His ratings show that he strikes a chord with listeners. For 47 straight ratings periods, his show has finished in first place.

He has also struck a chord with Americans across the country, counting among the audience for his nationally syndicated show listeners from Maine to California.

Neal is a confirmed libertarian, dishing out his brand of, as he calls it, ''the painful truth'' to Republicans and Democrats alike. And I should know; he frequently dishes it out to me, too.

But Neal is more than a radio talker. In his life, he has been a military brat, whose dad was a marine pilot, an attorney, a department store clerk, an insurance salesman, a carpet buyer, a postal worker, a gubernatorial speechwriter, as well as a motel bookkeeper.

These experiences form more than an eclectic background. It is the foundation that gives Neal the ability to connect with a wide variety of listeners from all walks of life, and to voice what is on their minds. As Neal puts it: ''Somebody's got to say it.''

His Hall of Fame honor is the latest in a string of national successes, including writing the best-selling books, ''The Fair Tax—The Truth'' and ''Somebody's Gotta Say It,'' both of which are New York Times bestsellers.

I am pleased to have joined Neal over the years in his fair-tax efforts.

When he is not holding forth on the issues of the day or speaking to groups, Neal can be found in the skies or on a golf course. He is an avid pilot and, I might add, a very safe pilot, having had some experiences with Neal. Neal has been a very good friend of mine for many years.

Like most of us, he married way over his head. His lovely wife Donna is his rock.

Neal's selection to the National Radio Hall of Fame is overdue, and I am very happy that this honor has now come to him. With his induction into the National Radio Hall of Fame, Neal joins luminaries such as Bob Hope, Paul Harvey, and Dick Clark. This honor is well deserved.

Congratulations, Neal.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

BATTEN DISEASE

Mr. DURBIN. Mr. President, I recently heard from the friends and family of a young boy in Illinois named Jasper Duinstra who was diagnosed earlier this year with late infantile neuronal ceroid lipofuscinosis, often referred to as Batten disease.

Batten disease is a rare and devastating childhood disease, affecting between 2 and 4 of every 100,000 live births in the United States. Due to an enzyme deficiency, waste accumulates in the child's brain, causing cells to become dysfunctional and eventually die. This results in seizures, mental impairment and progressive loss of sight and motor skills. Sadly, there are no known treatments to halt or reverse the symptoms of Batten disease and the disease is fatal.

The physical, emotional, and financial toll of this disease is devastating. But Jaspers family and friends have rallied around him to create a sense of hope and have motivated many people in their community to team together in pursuit of a cure for this disease. There is a sense of urgency behind the need to increase funding for Batten and

other rare childhood disorders. The urgency grows everyday when mothers and fathers watch their childrens health rapidly deteriorate.

Jasper Duinstras friends and family have formed a nonprofit organization called Jasper Against Batten, and children from 20 elementary schools have mobilized one of the largest kids helping kids initiatives on behalf of this group. The money these students are raising will go toward research for a treatment and maybe one day, a cure.

Jasper Duinstra is just one of the thousands of children who need our support in the fight against Batten disease and other fatal orphan diseases. In addition to private efforts to raise money through groups like Jasper Against Batten, the National Institutes of Health is funding research in Batten disease and other rare diseases.

While the number of Americans affected by any particular rare disease may be very small, over 6,000 rare diseases have been identified. Taken together, these diseases affect about 25 million Americans. The burden of these diseases is great, not only because of the number of people affected but because too often there are few or no treatments available for people suffering from them.

The Orphan Drug Act provides some incentives for drug companies to develop drugs for rare diseases. This has been a successful effort, and more than 200 drugs and biological products for rare diseases have been brought to the U.S. market. However, despite the success in finding treatments for some rare diseases, others such as Batten disease have seen relatively little progress over the last several decades. Today, there are promising experimental treatments, but they need to find their way more quickly to these children who are rapidly deteriorating.

In addition to searching for new and more readily available treatments, some scientists are also searching for ways to use existing drugs to treat rare diseases that have few options for treatment. A Chicago-based research foundation called Partnership for Cures has teamed with Jasper Against Batten and is now doing just that. In partnership with the National Institutes of Health, they are currently screening thousands of drugs that have already been approved by the Food and Drug Administration to see whether there are beneficial side effects that could slow down the progression of rare orphan diseases, starting with Batten.

I know Jasper's family is heartbroken, and I commend his family, friends, and the Chicago community for responding to tragedy with action. With biomedical researchers, clinicians, and community partners, Jasper's family is leading the fight to find a cure for Batten disease and for quicker access to treatments for children with many fatal orphan diseases.

INSIDE THE GUN SHOW

Mr. LEVIN. Mr. President, the Violence Prevention Research Program at the University of California, Davis, released an important report earlier this month detailing many of the potential dangers at gun shows. The report, ''Inside Gun Shows: What Goes on When Everybody Thinks Nobody's Watching,'' was composed from an analysis of existing research as well as direct observation and photographic evidence. During a 3-year period, data was collected from 78 gun shows in 19 States. The report provides a clear illustration of a largely unregulated gun market that is ''an important source of guns used in criminal violence.''

Under the Federal Brady Act, before an individual can purchase a handgun from a licensed dealer, they must pass a background check to insure they are not legally prohibited from purchasing or possessing a firearm. In 2008, 9.9 million background checks were conducted for firearm purchases, 147,000 of which were rejected. The majority of these denials were the consequence of a prior conviction or indictment. However, when an individual purchases a handgun from a private citizen, who is not a licensed gun dealer, there are no requirements to ensure that the purchaser is not in a prohibited category. Because private party transactions account for approximately 40 percent of all gun sales, current Federal background check requirements have limited affect over the overall rates of gun-related violent crime.

Based on promoter listing, the report estimates that there were nearly 2,800 gun shows in the United States during 2007. Generally open to the public, they can vary in size from fewer than 100 display tables to a few thousand. Accounting for approximately one-third of sales at these shows, unlicensed vendors often seek to exploit their unregulated status. At one show, a vender advertised with a sign that read ''No background checks required; we only need to know where you live and how old you are.''

The report details that while a wide range of guns can be found at most gun shows, assault weapons, particularly civilian versions AR and AK rifles, are much more prominent than one might generally see at a licensed gun store. Semiautomatic pistols that accept the same high-capacity magazines and fire the same ammunition as AR and AK rifles are also heavily present. Even .50 caliber rifles, notorious for their extraordinary destructive capabilities, are available from some private parties.

According to the report, there were more than 360,000 violent crimes involving guns, including an estimated 11,512 homicides, committed in the United States in 2007 alone. While America accounts for less than 5 percent of the world's population, we account for somewhere between 35 to 50 percent of all firearms in civilian hands. Gun shows present an ideal opportunity for gun traffickers to make unregulated purchases. I urge my colleagues to take up and pass sensible gun legislation that will help prevent such acts and help protect the safety of our communities.

ZIMBABWE

Mr. FEINGOLD. Mr. President, I held a hearing last week of the Subcommittee on African Affairs to explore U.S. policy options toward Zimbabwe's transition. The hearing confirmed that far too little progress has been made in implementing the Global Political Agreement signed last year and that abuses continue at an alarming rate. The transition remains incomplete and far from irreversible. Yet at the same time, the hearing made clear to me the great potential that this transition holds and the great opportunity for the United States and those who care about Zimbabwe to help advance real reform and recovery. We need to seize this opportunity and look for ways that we can proactively engage and help strengthen the hands of reformers in Zimbabwe's transitional government.

Just over a year ago, Zimbabwe was in the throes of intense violence carried out by Robert Mugabe and his allies against the opposition MDC's members, supporters, and families. This was a deliberate campaign to hold on to power and subvert the will of the people expressed in the March 29 elections. Once considered a liberator of his people, Mugabe had become one of the most despotic and brutal leaders of the day. And under his watch, the Zimbabwean economy had gone from one of Africa's most prosperous to one of Africa's most desperate. By the end of last year, millions of Zimbabweans were at risk of starvation and official estimates put inflation at 231 million percent.

The situation today in Zimbabwe looks quite different, at least on the surface. Last September, with South Africa's mediation, the parties signed the Global Political Agreement and committed to form a transitional government. Then, after 5 months of delays, MDC leader Morgan Tsvangirai was sworn in as Prime Minister and the MDC assumed control of several key ministries. A year before, this would have been inconceivable for most Zimbabweans. Yet, it happened and has brought forth a sense of possibility that has not been there in years. That optimism has been furthered by the success of the new Minister of Finance from MDC, Tendai Biti, in stopping the economic decline and taking initial steps to promote economic growth.

These changes are quite significant, though there is still a long way to go toward restoring the rule of law. Mugabe continues to refuse to implement important aspects of the Global Political Agreement, for example the appointment of new provincial governors and the replacement of the Reserve Bank Governor and Attorney

General. He and his allies are doing everything they can to maintain their historic patronage system and power structures. Moreover, security forces are largely still operating as instruments of Mugabe's ZANU–PF party, condoning land takeovers and harassing MDC and civil society activists. According to Human Rights Watch, the police and army continue to use brutal force to control access to the diamond fields of Marange district in eastern Zimbabwe.

Until we see an end to these abuses and real, irreversible progress on implementation of the Global Political Agreement, I see no reason for the United States to repeal sanctions. All of us at the hearing I chaired seemed to be in agreement on that. The European Union has taken the same position after a high-level delegation visited Harare last month. Together, we need to keep the spotlight and the pressure on those who are obstructing implementation of the Global Political Agreement and continuing to perpetrate abuses. And if nothing changes, we should look for ways to ramp up that pressure.

However, keeping the pressure on Mugabe and hardliners is not a sufficient strategy in and of itself to move Zimbabwe's transition forward. We also need to take steps—both symbolic and substantive—to engage with and empower reformers within the transitional government. I am glad that the United States is already providing support to the Office of the Prime Minister, and we should look at ways we can provide technical assistance to other ministries that demonstrate a commitment to reform, especially the Ministry of Finance. In addition, shifting our humanitarian assistance in Zimbabwe to lay the groundwork for social and economic recovery can help advance the political transition. We should also consider working with like-minded donors to develop a plan and dedicated resources for Zimbabwe's economic recovery that could be leveraged for genuine democratic reform.

Mr. President, the reality is that the United States is already doing and spending a lot in Zimbabwe, but we need to better target our diplomacy and our resources toward advancing this transition. Over the last few years, our diplomats have been on the frontlines of speaking out against repression and pushing for democratic change in Zimbabwe. With the formation of the transitional government, the playing field has changed. But that does not mean we should retreat to the sidelines and stop trying to proactively advance our goals. We need to keep working with all Zimbabweans who are committed to a peaceful, democratic future to push this transition forward. In the coming months, I look forward to working with the administration to do just that.

50TH ANNIVERSARY OF ICBM FORCE

Mr. ENZI. Mr. President, I rise to recognize the 20th Air Force as the U.S. Air Force celebrates the 50th anniversary of the first nuclear-tipped inter-continental ballistic missile on alert. I join my colleague Senator KENT CONRAD from North Dakota as co-chair of the Senate ICBM Coalition to pay special tribute to a force that succeeds daily in its mission of providing safety and security for our great Nation.

My first contact with F.E. Warren Air Force Base in Wyoming as an ICMB base was when I was in Boy Scouts. Our rocket troop visited an Atlas missile site near Cheyenne and we learned about the deterrent effect of this high technology. Even then, we knew this force was magnificent.

From the first ICBM placed on alert in 1959 at Vandenberg Air Force Base in California, our Nation's force has grown and adapted the delivery systems leading to today's force with three Missile Wings. Today's ICBM force has missile fields in Wyoming, North Dakota, Montana, Colorado, and Nebraska. The force partners with Hill Air Force Base in Utah and its command structure will soon transfer to Air Force Global Strike Command in Louisiana. We have a force whose direct domestic impact spans across seven States.

America's dispersed and alert Minuteman III ICBM force is a critical element of the nuclear triad and represents our country's most responsive, stabilizing, and cost-effective strategic force. The strategic nuclear forces that deterred Soviet aggression and kept the limited conflicts of the Cold War era from escalating continue to play a critical role in deterring aggression and dissuading new near-peer competitors.

The element that has unchanged in the last 50 years is the dedication of the men and women of the Air Force to safeguard and carry out this mission. This force of weapons and personnel has been deployed every hour of every day for the last 50 years. The hours on alert, being on patrol and maintaining and upgrading the missile systems are abundant.

The 20th Air Force is home to the most powerful force in our entire military. The mission of safeguarding the Nation's ICBM force has been entrusted to the best military in existence. The mission has been successful and will continue to be.

I know all Members of the Senate will join me in thanking the current and former members of the Air Force who have served in the missile fields over the last 50 years. I also thank my colleague, Senator CONRAD, for his work on behalf of on the coalition and recognizing this historic anniversary.

TRIBUTE TO DIANE WOLK

Mr. LEAHY. Mr. President, many of us have been touched by a family member or friend who has been diagnosed with Alzheimer's. In fact, more than 5.3 million people in the United States are living with Alzheimer's, which translates into a new case every 70 seconds. As our Nation ages, more and more cases will develop each year and an estimated million new cases will be diagnosed annually by 2050. I am proud be a cosponsor of S. 1492, the Alzheimer's Breakthrough Act of 2009 which helps fund Alzheimer's disease research, gives assistance to caregivers, and increases public education about prevention of Alzheimer's.

It is not just the elderly who are diagnosed with Alzheimer's. My good friend Diane Wolk of Castleton, VT, in her early fifties was diagnosed about a year and a half ago with early onset Alzheimer's. Instead of hiding her diagnosis or giving up hope, Diane now travels the State and the country sharing her experience with others. Through promoting education and early intervention, Diane helps patients and their family members recognize their symptoms and seek diagnosis and treatment. I ask unanimous consent to have printed in the RECORD a story from the Burlington Free Press about Diane's courage and perseverance in the face of an overwhelming diagnosis.

Marcelle and I are so proud of her, and of the inspiration she gives to Alzheimer's patients in Vermont and nationwide. She is a true hero.

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

[From the Burlington FreePress.com]

LESSONS FROM ALZHEIMER'S

(By Sally Pollak)

Diane Wolk spent her adult life as an educator, a teacher or principal in Vermont public schools. One day this summer, Wolk said she had another lesson she'd like to share with people—perhaps her most important.

Wolk's teaching moment came in a lounge at Fletcher Allen Health Care. She was in Burlington with her husband, Dave Wolk, to undergo an experimental treatment for Alzheimer's disease, a degenerative brain disorder Wolk was diagnosed with two years ago.

Diane Wolk wanted to tell people that in the face of confusing symptoms and diagnosis with a ''scary'' illness, it is both possible and important to approach the situation in an honest, upbeat and life-affirming way.

''You have to take the fear out of the diagnosis,'' Wolk, 58, said. ''It's not a death sentence. You can curl up and die or you can do something. I'm always the teacher, and if I can help someone else, I will.''

Wolk is hopeful that talking about her experience with Alzheimer's, which she developed at an unusually early age, might help others recognize symptoms, seek medical care, find courage and summon an upbeat attitude.

''I have a very easy life,'' she said in the hospital. ''I have a wonderful husband. This is a little setback, but things are good. Very few people get out of this life unscathed. I try to stay active and upbeat. People deal with all kinds of difficult situations, and this one—it's really just bad luck.''

Wolk is married to Dave Wolk, 56, the president of Castleton State College and

former Vermont Commissioner of Education. They've been married 18 years, a second marriage for both. They have four children in their 20s, two sons and two daughters.

Diane Wolk, has a Ph.D. in educational leadership from the University of Vermont, and a long and varied career in Vermont education. She's taught students from elementary school to graduate school, directed the student-teacher program at Castleton State, and served as chairwoman of the state Board of Education.

Wolk retired in 2006 from her job as principal of Northeast Elementary School in Rutland City, bringing to a finish a Vermont career that started in 1972. That year, she was hired to teach first grade at Barstow Memorial School in Chittenden, where she taught for 18 years.

Her last two years as principal in Rutland, Wolk found it increasingly difficult to run the school, she said.

''I was off my game,'' Wolk said. ''I was getting confused, and I thought it was the stress of being principal. I was forgetting things and repeating myself. I wasn't myself.''

Leaving her profession meant saying goodbye to a vital part of her life, but it was an important step in her care, her husband said.

''She loved the kids and the teachers and the families. She missed that part,'' Dave Wolk said. ''In terms of her well-being, it was helpful to her. She recognized that intuitively.''

''TOUGH THING TO LEARN''

The problems Diane Wolk perceived at work—memory loss, confusion, repeating herself, frustration—had been noticeable to her family and close friends since early 2004, her husband said. The family was concerned enough about the symptoms that Diane Wolk went to her doctor to check it out.

She was ultimately diagnosed with Alzheimer's disease in 2007 at the University of Vermont's Memory Center, where she saw its founder, neurologist William Pendlebury.

''It was a tough thing to learn,'' Wolk said. ''I think I'm still absorbing it.''

She has come to understand that the best approach for her is: ''OK, it's a new day. Let's see what we can do.''

This means Wolk—who considers herself a high-energy person—is adjusting to a slower pace. She's learned to take naps when she's tired. She tries not to ''bug'' her husband too much. She says she sometimes feels like she's in a haze.

''You get angry at yourself because there are these moment where you know what you want to do and you can't,'' Wolk said. ''And it just gets very frustrating and scary.''

''I've always felt that I've been in tune with my body,'' Wolk said. ''If I need to sleep, I sleep. If I need to be in sunshine, I'll be in sunshine.''

David Wolk keeps track of her medicine, her meals, her schedule and other aspects of family life. Their children are a great support and visit home often, the Wolks said.

''We've downsized our lives,'' Diane Wolk said. ''We pick and choose when we want to stay in or go out. I have a great group of friends, and socializing when you have Alzheimer's is very, very important.''

Dave Wolk says he tries to minimize the stress in Diane's life, not an easy endeavor for a college president and primary caregiver of an Alzheimer's patient.

''She's my No. 1 priority, and president of the college is my No. 2 priority,'' he said.

His responsibilities include bringing Diane from their home on the Castleton campus to Fletcher Allen Health Care every six weeks for medical treatment.

She is enrolled in a clinical drug trial at UVM with intravenous infusions every 13 weeks, brain scans and memory tests.

The care provided by Pendlebury extends beyond his leading the clinical study, the Wolks said. He is ''wise and gentle,'' Dave Wolk said.

''He's very calm, very wise and very uplifting,'' Diane Wolk said. ''He doesn't let you get down. He gives you the information you need and says here is what you can do with it. He's salt of the earth.''

One conversation with Pendlebury was particularly important and especially hard to confront, they said. Pendlebury advised the Wolks to complete advance directive documents, to put in writing their wishes about medical care and treatment options while they are capable of making such decisions.

''Nobody wants to realize their own death. Everybody thinks you've got plenty of time,'' Diane Wolk said. ''But we had those choices to make. Now everybody knows exactly what our wishes are, and it ended up being very comforting.''

''CHERISH THE MOMENT''

The Wolks make an effort to find comfort where they can. This means hanging out with family and friends, taking a July trip to Citi Field to see Paul McCartney, Diane Wolk's other big crush, and practicing a certain acceptance of each day, each moment.

''I've been trying to embrace something akin to a Buddhist philosophy,'' Dave Wolk said. ''I try not lament the past and I try not to worry about the future. I'm trying to embrace the moment, cherish the moment.''

Yet he is fully aware that Alzheimer's is, in his words, a ''nasty, progressive disease that's full of doom and gloom.''

As he cares for his wife, and makes arrangements and schedules to help ease her way through the day, Dave Wolk remains in awe of her sunny nature.

''If you approach Alzheimer's the way Diane Wolk approaches it—in a very upbeat, positive manner—I believe it can extend life. And extend the quality of life,'' he said.

Diane Wolk has suffered a decline in her short-term memory over the past couple of months. She is confused about the day and date, and sometimes can't remember what happened yesterday or what's planned for tomorrow.

For Diane Wolk, the ''mystery of the brain'' makes Alzheimer's a particularly frightening disease, she said. When people are scared of something, they shy away from it. They don't want to talk about it, she said.

''If somebody is struggling with this disease and not knowing where to go or what to do, there's a lot of help out there,'' Wolk said in July at the hospital.

Dave Wolk remembers the first time he and Diane went to Fletcher Allen for her IV treatment. She receives the intravenous in the oncology unit, where patients go for chemotherapy.

The Wolks were there for seven hours, and they watched cancer patients come and go.

''Diane kept saying how fortunate we are,'' Dave Wolk said. ''She is such an amazing, inspirational person. I know of no greater profile in courage.''

ADDITIONAL STATEMENTS

EAST BAY REGIONAL PARK DISTRICT

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the 75th anniversary of the East Bay Regional Park District, EBRPD.

On November 4, 1934, during the height of the Great Depression, the residents of Alameda and Contra Costa Counties voted to form the EBRPD by a stunning 71 percent. Voters approved this park project in order to provide recreational opportunities and employment during the Great Depression. This year, we celebrate its 75th anniversary and marvel at the visionary efforts that have made EBRPD the largest regional park district in the Nation.

On June 4, 1936, EBRPD acquired its first parcel of land—2,162 acres sold to the district by the East Bay Municipal Utility District. This acreage came to host EBRPD's first three parks—Upper Wildcat Canyon, now known as Tilden, Temescal, and Roundtop, now known as Sibley. Today, EBRPD manages 65 parks on over 98,000 acres, with 1,100 miles of trails throughout Alameda and Contra Costa Counties.

The individual parks that comprise EBRPD vary greatly in size, feature, and character. There are parks on the hillsides above the cities of Berkeley and Oakland, waterfront parks along the San Francisco Bay, and a park that includes a turn-of-the-century farm in Fremont. While all parks in the district allow visitors the opportunity to enjoy open spaces, some parks also have visitor attractions including access to swimming, boating, and camping. Located within the urban metropolises of Alameda and Contra Costa Counties, EBRPD remains a cherished source of wilderness and recreation for local residents. Through wars and unrest, unprecedented population growth, and both challenging and positive economic times, EBPRD's mission of preserving land for wildlife habitat, outdoor recreation, and nature education has stood the test of time.

For 75 years, the East Bay Regional Park District has offered a recreational escape for hikers and outdoor enthusiasts and a glimpse of the region's rich history. Its parks also offer a powerful reminder of the beauty of nature and the importance of conservation efforts. I commend the EBRPD staff and volunteers for maintaining the natural beauty and historical significance of this impressive park district. With their continued stewardship, future generations will have the opportunity to enjoy our State's unique history and natural environment for many 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.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 3:20 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1707. An act to authorize appropriations for fiscal years 2010 through 2014 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

The enrolled bill was subsequently signed by the Majority Leader (Mr. REID).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1751. A bill to prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now or any other entity which has been indicted for or convicted of violations of laws governing election administration or campaign financing.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 5, 2009, she had presented to the President of the United States the following enrolled bill:

S. 1707. An act to authorize appropriations for fiscal years 2010 through 2014 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–3236. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Television Broadcasting Services; Boston, Massachusetts'' (MB Docket No. 09–142) received in the Office of the President of the Senate on September 30, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3237. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Television Broadcasting Services; Flagstaff, Arizona'' (MB Docket No. 08–110) received in the Office of the President of the Senate on September 30, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3238. A communication from the Assistant Secretary of the Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Special Transfers for Unemployment Compensation Modernization and Administration and Relief From Interest on Advances'' (UIPL No. 14–01) received in the Office of the President of the Senate on September 28, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3239. A communication from the Assistant Secretary of the Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Application of State-Wide Personnel Actions to Unemployment Insurance Program'' (UIPL No. 18–09) received in the Office of the President of the Senate on September 28, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3240. A communication from the Assistant Secretary of the Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Federal-State Extended Unemployment Compensation Act of 1970 — Temporary Changes in Extended Benefits'' (UIPL No. 7–09 and 12–09, Change 1) received in the Office of the President of the Senate on September 28, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3241. A communication from the Assistant Secretary of the Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Treatment of Pension Rollover Distributions'' (UIPL No. 10–09) received in the Office of the President of the Senate on September 28, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3242. A communication from the Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Part 4022 and 4044) received in the Office of the President of the Senate on September 28, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3243. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Flood Mitigation Grants and Hazard Mitigation Planning'' (RIN1660–AA36) received on September 28, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–3244. A communication from the Chief Privacy Officer, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''Privacy Office Annual Report to Congress''; to the Committee on Homeland Security and Governmental Affairs.

EC–3245. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 8E for Fiscal Years 2006 through 2009, as of March 31, 2009''; to the Committee on Homeland Security and Governmental Affairs.

EC–3246. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 2A for Fiscal Years 2007 through 2009, as of March 31, 2009''; to the Committee on Homeland Security and Governmental Affairs.

EC–3247. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 3F for Fiscal Years 2007 through 2009, as of March 31, 2009''; to the Committee on Homeland Security and Governmental Affairs.

EC–3248. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 7E for Fiscal Years 2007 through 2009, as of March 31, 2009''; to the Committee on Homeland Security and Governmental Affairs.

EC–3249. A communication from the Acting Officer for Civil Rights and Civil Liberties, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''U.S. Department of Homeland Security's Office for Civil Rights and Civil Liberties Second Quarter Fiscal Year 2009 Report to Congress''; to the Committee on Homeland Security and Governmental Affairs.

EC–3250. A communication from the Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''NARA Facility Locations and Hours'' (RIN3095–AB61) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–3251. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, an annual report relative to the federal work force for fiscal year 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–3252. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, a report entitled ''Fiscal Year 2007 Report to Congress on the Impact and Effectiveness of Administration for Native Americans Projects''; to the Committee on Indian Affairs.

EC–3253. A communication from the Director, National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report relative to the final allocation plan for the fiscal year 2009 HIDTA discretionary funding; to the Committee on the Judiciary.

EC–3254. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report entitled ''Report of the Proceedings of the Judicial Conference of the United States'' for the March 2009 session; to the Committee on the Judiciary.

EC–3255. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, a report relative to a policy to ensure that individuals who provide mentoring services to inmates are permitted to continue such services after the offender is released from prison; to the Committee on the Judiciary.

EC–3256. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Hawaii State Advisory Committee; to the Committee on the Judiciary.

EC–3257. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Arizona State Advisory Committee; to the Committee on the Judiciary.

EC–3258. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Indiana State Advisory Committee; to the Committee on the Judiciary.

EC–3259. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Michigan State Advisory Committee; to the Committee on the Judiciary.

EC–3260. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the South Dakota State Advisory Committee; to the Committee on the Judiciary.

EC–3261. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the

Nebraska State Advisory Committee; to the Committee on the Judiciary.

EC–3262. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Utah State Advisory Committee; to the Committee on the Judiciary.

EC–3263. A communication from the Director of Regulation Policy and Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Loan Guaranty: Assistance to Eligible Individuals in Acquiring Specially Adapted Housing; Cost-of-Construction Index'' (RIN2900–AN26) received in the Office of the President of the Senate on September 28, 2009; to the Committee on Veterans' Affairs.

EC–3264. A communication from the Senior Advisor for Regulations, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Payments to Beneficiaries Residing in Vietnam and Cambodia and Other Conforming Changes'' (RIN0960–AG62) received in the Office of the President of the Senate on September 24, 2009; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1510. A bill to transfer statutory entitlements to pay and hours of work authorized by the District of Columbia Code for current members of the United States Secret Service Uniformed Division from the District of Columbia Code to the United States Code (Rept. No. 111—86).

S. 692. A bill to provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances (Rept. No. 111—87).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mrs. FEINSTEIN (for herself and Mr. GRASSLEY):

S. 1749. A bill to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners; to the Committee on the Judiciary.

By Mr. WEBB:

S. 1750. A bill to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHANNS (for himself and Mr. NELSON of Nebraska):

S. 1751. A bill to prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now or any other entity which has been indicted for or convicted of violations of laws governing election administration or campaign financing; read the first time.

By Mr. SANDERS:

S. 1752. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide wartime disability compensation for certain veterans with Parkinson's disease; to the Committee on Veterans' Affairs.

By Mr. SANDERS:

S. 1753. A bill to amend title 38, United States Code, to increase assistance for disabled veterans who are temporarily residing in housing owned by a family member, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURRIS (for himself and Mr. DURBIN):

S. Res. 301. A resolution designating October 2, 2009, as ''World MRSA Day''; considered and agreed to.

By Mr. SPECTER (for himself, Mr. GRAHAM, and Ms. KLOBUCHAR):

S. Res. 302. A resolution raising the awareness of the need for crime prevention in communities across the country and expressing support for designation of October 1, 2009 through October 7, 2009 as ''Celebrate Safe Communities Week'' and October as ''Crime Prevention Month''; considered and agreed to.

By Mr. LEVIN (for himself, Mr. VOINOVICH, Mr. BROWN, Ms. LANDRIEU, Mr. KAUFMAN, Ms. STABENOW, Ms. SNOWE, and Mr. LEAHY):

S. Con. Res. 44. A concurrent resolution expressing the sense of Congress that a postage stamp should be issued to commemorate the War of 1812 and that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 213

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 213, a bill to amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier, and for other purposes.

S. 254

At the request of Mr. ISAKSON, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor 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. 380

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 380, a bill to expand the boundaries of the Thunder Bay National Marine Sanctuary and Underwater Preserve, and for other purposes.

S. 553

At the request of Ms. KLOBUCHAR, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 553, a bill to revise the authorized route of the North Country National Scenic Trail in northeastern Minnesota to include existing hiking trails along Lake Superior's north shore and in Superior National Forest and Chippewa National Forest, and for other purposes.

S. 565

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 584

At the request of Mr. HARKIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 584, a bill to ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

S. 624

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

S. 729

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 797

At the request of Mr. DORGAN, the name of the Senator from Colorado (Mr. BENNET) 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 names of the Senator from Virginia (Mr. WARNER) and the Senator from New York (Mr. SCHUMER) were added as cosponsors 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. 823

At the request of Ms. SNOWE, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 850

At the request of Mr. KERRY, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson—Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 870

At the request of Mrs. LINCOLN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 870, a bill to amend the Internal Revenue Code of 1986 to expand the credit for renewable electricity production to include electricity produced from biomass for on-site use and to modify the credit period for certain facilities producing electricity from open-loop biomass.

S. 883

At the request of Mr. KERRY, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Ohio (Mr. BROWN) 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. 931

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

S. 1030

At the request of Mrs. LINCOLN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1030, a bill to amend the Internal Revenue Code of 1986 to eliminate the reduction in the credit rate for certain facilities producing electricity from renewable resources.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor 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 Florida (Mr. NELSON) 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. 1171

At the request of Mr. PRYOR, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1171, a bill to amend title XVIII of the Social Security Act to restore State authority to waive the 35-mile rule for designating critical access hospitals under the Medicare Program.

S. 1197

At the request of Mr. VOINOVICH, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 1197, a bill to establish a grant program for automated external defibrillators in elementary and secondary schools.

S. 1408

At the request of Mr. MENENDEZ, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1408, a bill to amend the Internal Revenue Code of 1986 to encourage alternative energy investments and job creation.

S. 1547

At the request of Mr. REED, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

S. 1595

At the request of Mr. MERKLEY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1595, a bill to amend the Truth in Lending Act to prohibit the distribution of any check or other negotiable instrument as part of a solicitation by a creditor for an extension of credit, to limit the liability of consumers in conjunction with such solicitations, and for other purposes.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. 1668

At the request of Mr. BENNET, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1668, a bill to amend title 38, United States Code, to provide for the inclusion of certain active duty service in the reserve components as qualifying service for purposes of Post-9/11 Educational Assistance Program, and for other purposes.

S. 1685

At the request of Mr. SANDERS, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1685, a bill to provide an emergency benefit of $250 to seniors, veterans, and persons with disabilities in 2010 to compensate for the lack of a cost-of-living adjustment for such year, and for other purposes.

S. 1688

At the request of Mr. BENNETT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1688, a bill to prevent congressional reapportionment distortions by requiring that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included for respondents to indicate citizenship status or lawful presence in the United States.

S. 1698

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1698, a bill to provide grants to the States to improve high schools and raise graduation rates while ensuring rigorous standards, to develop and implement effective school models for struggling students and dropouts, and to improve State policies to raise graduation rates, and for other purposes.

S. 1733

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1733, a bill to create clean energy jobs, promote energy independence, reduce global warming pollution, and transition to a clean energy economy.

S. 1744

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1744, a bill to require the Administrator of the Federal Aviation Administration to prescribe regulations to ensure that all crewmembers on air carriers have proper qualifications and experience, and for other purposes.

S.J. RES. 15

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S.J. Res. 15, a joint resolution

proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 297

At the request of Mr. WEBB, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 297, a resolution to recognize the Dyke Marsh Wildlife Preserve as a unique and precious ecosystem.

AMENDMENT NO. 2559

At the request of Mr. SANDERS, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 2559 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mr. GRASSLEY):

S. 1749. A bill to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am pleased to introduce the Cell Phone Contraband Act of 2009. This bill would close a loophole that currently exists in Federal law by prohibiting the possession of cell phones and other wireless devices by prisoners in Federal facilities.

Currently, cell phones found in prisons are not specifically defined as contraband material. As a result, guards and inmates found smuggling or in possession of a cell phone in a Federal prison are rarely punished.

This bill would close this loophole by defining cell phones as contraband material under Federal law. As a result, any person smuggling or in possession of a cell phone could potentially serve up to a year in prison.

A cell phone should never be in the hands of a prisoner. The presence of these cell phones poses a grave safety concern for staff, inmates, and the public. We know that inmates use these phones to conduct criminal business outside of prison walls, including directing gang hits, controlling drug trafficking operations and even conducting credit card fraud. Corrections departments across the country are reporting a sharp increase in the number of cell phones being smuggled into prison facilities.

In May, California Inspector General David Shaw released a report on inmate cell phone use in California state prisons. The report found that cell phone seizures have increased tenfold in two years—from 261 in 2006 to 2,811 in 2008. According to the California Department of Corrections and Rehabilitation, cell phone and electronic communication device possession, ''is one of the most significant problems facing the Department today.''

So far this year, authorities have discovered over 4,000 cell phones among inmates in California prisons. There are presumably thousands more that were not discovered. Smugglers receive hundreds of dollars for each cell phone and more money if the cell phone contains a camera.

Staff members who smuggle cell phones for inmates often receive more in compensation for the contraband phones than they do from their paychecks. The California Inspector General's report on inmate cell phone use found that inmates pay $500 to $1,000 per cell phone and noted that one corrupt correctional officer received approximately $150,000 in 1 year to smuggle cell phones to inmates.

The cell phone problem is not limited to California. Maryland, Kansas, Massachusetts, Oklahoma, South Carolina, Tennessee, and Texas are just some of the states that have reported serious incidents coordinated by an inmate with a cell phone.

In Maryland, an inmate used a cell phone from jail to order the assassination of a witness testifying against him.

In Tennessee, a corrections officer was killed as a result of an inmate using a cell phone to plan an escape.

Department of Homeland Security Assistant Secretary Dora Schriro told my office, and I agree that cell phones in prison are ''a more serious threat than drugs or other contraband.''

The problem in our Nation's Federal prisons is no better. In 2008, the Federal Bureau of Prisons confiscated 1,519 phones from Federal prison camps and 255 cell phones from secure Federal institutions. I expect that these numbers will continue to increase unless we take proactive steps to stop the problem.

In July, I became a cosponsor of the Safe Prisons Communications Act of 2009, authored by Senator KAY BAILEY HUTCHISON. This bill would enable state and Federal prisons to petition the Federal Communications Commission and request to operate a wireless jamming device to block inmates from using cell phones to conduct criminal business from inside prison walls. Before granting permission, the FCC would have to first determine whether the jammer would interfere with emergency or public safety communications outside of the prison walls.

If enacted, the bill will provide another necessary tool in the effort to ensure that the growing problem of cell phones in prison does not turn into an epidemic. It is my hope that this will serve as a strong deterrent to those who would profit from smuggling cell phones and other wireless devices into our Federal prisons.

Our Federal prisons house some of the most dangerous criminals in our Nation. Cell phones allow prisoners to traffic drugs and carry out murders from within our prisons and that is unacceptable.

I urge my colleagues to support this important legislation.

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

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

S. 1749

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 ''Cell Phone Contraband Act of 2009''.

SEC. 2. WIRELESS DEVICES IN PRISON.

Section 1971 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or (d)(1)(E)'' and inserting '', (d)(1)(E), or (d)(1)(F)''; and

(B) in paragraph (5), by striking ''(d)(1)(F)'' and inserting ''(d)(1)(G)''; and

(2) in subsection (d)(1)—

(A) in subparagraph (E), by striking ''and'' at the end;

(B) by redesignating subparagraph (F) as subparagraph (G); and

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

''(F) a phone or other device used by a user of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))) in connection with such service; and''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 301—DESIGNATING OCTOBER 2, 2009, AS ''WORLD MRSA DAY''

Mr. BURRIS (for himself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 301

Whereas methicillin-resistant Staphylococcus aureus (MRSA) causes deadly infections in patients that are receiving treatment in health care facilities and affects numerous individuals within our Nation's communities;

Whereas the Centers for Disease Control and Prevention has estimated that hospital-acquired MRSA infections killed more than 19,000 individuals in the United States in 2006;

Whereas patient and consumer advocacy organizations around the world are lending their voices to a call for leadership and an international commitment topreventing and eradicating MRSA, a disease that has reached pandemic levels and is spreading at an alarming rate;

Whereas patient and consumer advocacy organizations are calling upon health care officials and government leaders to step up and take a more comprehensive approach to stopping MRSA through implementation of a broad and proactive prevention program;

Whereas the MRSA Survivors Network, the first consumer organization in the United States to raise awareness concerning the MRSA epidemic and other such multi-drug resistant health care-acquired infections, has announced that October 2, 2009, has been designated as ''World MRSA Day'', which shall be commemorated annually on such date; and

Whereas the MRSA Survivors Network has also designated the month of October as ''World MRSA Awareness Month'' in order to call attention to this worldwide epidemic: Now, therefore, be it

Resolved, That the Senate designates October 2, 2009, as ''World MRSA Day''.

SENATE RESOLUTION 302—RAISING THE AWARENESS OF THE NEED FOR CRIME PREVENTION IN COMMUNITIES ACROSS THE COUNTRY AND EXPRESSING SUPPORT FOR DESIGNATION OF OCTOBER 1, 2009 THROUGH OCTOBER 7, 2009 AS ''CELEBRATE SAFE COMMUNITIES WEEK'' AND OCTOBER AS ''CRIME PREVENTION MONTH''

Mr. SPECTER (for himself, Mr. GRAHAM, and Ms. KLOBUCHAR) submitted the following resolution; which was considered and agreed to:

S. RES. 302

Whereas communities across the country face localized increases in violence and other crime;

Whereas local law enforcement-community partnerships are an effective tool for prevention crime and addressing the fear of crime;

Whereas the National Sheriffs' Association (NSA) and the National Crime Prevention Council (NCPC) are leading national resources providing community safety and crime prevention tools tested and valued by local law enforcement agencies and communities nationwide;

Whereas the NSA and the NCPC have joined together to create the ''Celebrate Safe Communities'' (CSC) initiative in partnership with the Bureau of Justice Assistance, Office of Justice Programs, Department of Justice;

Whereas in its premiere year, 153 communities in over 32 States and the District of Columbia participated in ''Celebrate Safe Communities'';

Whereas ''Celebrate Safe Communities'' will take place the first week of October 2009 to help kickoff recognition of October as ''Crime Prevention Month'';

Whereas ''Crime Prevention Month'' was established 25 years ago to encourage public education on being alert to criminal activity within their communities;

Whereas ''Celebrate Safe Communities'' is designated to help local communities highlight the importance of law enforcement-community partnerships to keep communities safe places to live, learn, work, and play;

Whereas ''Celebrate Safe Communities'' will enhance the public awareness of vital crime prevention and safety messages and motivate Americans of all ages to learn what they can do to stay safe from crime;

Whereas ''Celebrate Safe Communities'' will help promote year-round support for locally based and law enforcement-led community safety initiatives that help keep families, neighborhoods, schools, and businesses from crime;

Whereas the week of October 1, 2009, through October 7, 2009, would be an appropriate week to designate as ''Celebrate Safe Communities'' Week; and

Whereas the month of October is designated ''Crime Prevention Month'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of October 1 through October 7, 2009 as ''Celebrate Safe Communities Week'';

(2) supports the designation of October 2009 as ''Crime Prevention Month'';

(3) commends the efforts of the thousands of local law enforcement agencies and their countless community partners educating and engaging residents of all ages in the fight against crime;

(4) asks communities across the country to consider how ''Celebrate Safe Communities'' can help them highlight local successes in the fight against crime;

(5) encourages the National Sheriffs' Association and the National Crime Prevention Council to continue to promote through ''Celebrate Safe Communities'' and year-round, individual and collective action, in collaboration with law enforcement and other supporting local agencies, to reduce crime and build safer communities throughout the United States; and

(6) encourages government agencies, civic groups, schools, businesses, and youth organizations to educate the public, showcase their accomplishments, and explore new partnerships during ''Crime Prevention Month''.

SENATE CONCURRENT RESOLUTION 44—EXPRESSING THE SENSE OF CONGRESS THAT A POSTAGE STAMP SHOULD BE ISSUED TO COMMEMORATE THE WAR OF 1812 AND THAT THE CITIZENS' STAMP ADVISORY COMMITTEE SHOULD RECOMMEND TO THE POSTMASTER GENERAL THAT SUCH A STAMP BE ISSUED

Mr. LEVIN (for himself, Mr. VOINOVICH, Mr. BROWN, Ms. LANDRIEU, Mr. KAUFMAN, Ms. STABENOW, Ms. SNOWE, and Mr. LEAHY) submitted the following concurrent resolution, which was referred to the Committee on Homeland Security and Governmental Affairs:

S. CON. RES. 44

Whereas the War of 1812, often referred to as ''America's Second War of Independence'', was a significant effort for the United States in securing territorial boundaries and limiting violence on the frontier, clarifying the border between the United States and Canada, ensuring safety for American mariners from attack in passage to Europe and other shores around the world, and securing a lasting and definitive independence from Great Britain;

Whereas the continental United States was invaded and partly occupied, and public buildings in the Nation's capital were burned, by a foreign power;

Whereas the major areas of military operations took place along the Canadian-American border in the North, the Atlantic Seaboard in the East, and the Gulf Coast in the South;

Whereas the infant United States Navy won small but important victories with ships like the USS Constitution, or ''Old Ironsides'', against the dominant world naval power of the time, and American squadrons on Lake Erie and Lake Champlain defeated British squadrons;

Whereas the War of 1812 was a proving ground for future leaders of the United States, including Andrew Jackson, William Henry Harrison, James Monroe, Winfield Scott, Zachary Taylor, John Quincy Adams, Jacob Brown, and others;

Whereas the War of 1812 produced heroes and heroines that entered into American legend, such as Dolley Madison, Jean Lafitte, Davy Crockett, and others, including many whose names have been lost to history or are buried in War Department records;

Whereas Native American resistance to encroachment on their lands was ennobled and personified by The Great Shawnee Chief Tecumseh and others;

Whereas desperate battles and circumstances produced a number of inspirational and patriotic sayings, including ''Don't give up the ship'', ''Remember the Raisin'', and ''We have met the enemy and they are ours'';

Whereas the bombardment of Fort McHenry inspired Francis Scott Key to pen the words of what was to become the National Anthem;

Whereas the War of 1812 left the people of the United States with a new respect and reverence for their national flag;

Whereas the iconic figure Uncle Sam made his first appearance in the War of 1812;

Whereas on December 24, 1814, the peace treaty to end the War of 1812 was officially signed in Ghent, Belgium;

Whereas the Treaty of Ghent declared the release of all prisoners of war and returned land seized by both sides;

Whereas the Treaty of Ghent also formally restored diplomatic relations between the United States and Great Britain, resulting in a lasting peace that has endured to this day;

Whereas the War of 1812 was significant in the formation of Canada and the Canadian identity;

Whereas 2012 marks the bicentennial of the War of 1812; and

Whereas the War of 1812 was an important benchmark, not only in forging the identity of this Nation, but also in the emergence of the United States as a great power: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States Postal Service should issue a postage stamp commemorating the War of 1812; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

Mr. LEVIN. Mr. President, I am pleased to be joined by our colleagues Senators VOINOVICH, LANDRIEU, KAUFMAN, BROWN, STABENOW, SNOWE, and LEAHY to introduce this concurrent resolution urging the United States Postal Service to issue a stamp commemorating the War of 1812. The War of 1812 was a pivotal war in our Nation's history. Often referred to as ''America's Second War of Independence,'' it secured our lasting independence from Great Britain, set our border with Canada, limited violence on the frontier and ensured the safety of American mariners around the world.

My home State of Michigan witnessed many battles during the War, including one fought near current day Monroe, Michigan, at the River Raisin. The Battle of the River Raisin, also known as the River Raisin Massacre, proved to be one of the bloodiest battles of the war. ''Remember the Raisin'' became a rallying cry for American soldiers.

Many such battles were fought throughout our young Nation; future leaders and presidents proved their mettle on the battlefield or at sea including Andrew Jackson, William Henry Harrison, James Monroe, Winfield Scott, Zachary Taylor, John Quincy Adams, and others. Legendary

heroes whose names are still remembered today emerged from this tumultuous time in our history such as Dolley Madison, Jean Lafitte, and Davey Crockett.

It was during the bombardment of Fort McHenry in 1814 that Francis Scott Key was inspired to pen the words to what became our national anthem, ''The Star Spangled Banner.'' It was also during the war that patriotic figure ''Uncle Sam'' made his first appearance. The inspiration for this figure was New York State businessman Samuel Wilson. Mr. Wilson provided beef in barrels to the army which were labeled U.S. for the U.S. These barrels were commonly said to come from Uncle Sam, a reference which still today refers to the Federal Government.

Considering the significance that the War of 1812 had on our young Nation, it is fitting that the U.S. Postal Service issue a stamp commemorating the bicentennial of this pivotal time in our history.

Mr. KAUFMAN. Mr. President, I would like to thank Senator LEVIN for submitting this important resolution to commemorate the significance of the War of 1812. ''America's Second War of Independence''—as it is sometimes called—was a critical turning point in forming the Nation we know today. Battles took place throughout the country to define our borders and secure our independence. One of those engagements took place in Lewes, DE.

Lewes sits at the mouth of the Delaware River—a critical gateway to Philadelphia, Wilmington, and Trenton. In March of 1813, under the command of Commodore John Beresford, the British Royal Navy established a blockade of the Delaware Bay and River. Beresford demanded that Lewes provide his squadron with meat, vegetables, and other supplies. He warned that, ''If you refuse to comply with this request, I shall be under the necessity of destroying your town.''

The residents of Lewes stood their ground. America was at war, and Lewes officials refused to help the British—even though the blockade was significantly impairing trade in the region and driving up the cost of goods.

Lewes prepared for attack. The Delawareans knew they did not have the ammunition to match the British ships, but they readied for battle as best as they could. Led by the intrepid Colonel Samuel Davis, local militias were called in to build a basic fort and small watchtower to protect the town. They blew out the lamps in the Cape Henlopen lighthouse and moved the buoys that marked the shoals in the bay, hoping to disorient enemy vessels during an assault.

On April 6, the British launched their attack. They fired hundreds of cannon balls at Lewes, yet they were unable to do heavy damage to the town. This was partially because the creative tactics of the Delawarean militia disoriented the British, and none of their larger ships were able to get close to shore. The people of Lewes also retrieved many of the cannons that landed in soft soil and fired them back at the British.

The engagement at Lewes also holds historical significance for the first-ever use of the Congreve rocket. The red glare of these rockets, when used during a similar attack on Fort McHenry in Baltimore, would inspire Francis Scott Key to write the ''Star Spangled Banner.''

After 22 hours of bombarding Lewes, Beresford's ships retreated on April 7. Although short of supplies and trained soldiers, the people of Lewes were able to repel and cause damage to the British vessels. There was no loss of life in Lewes and a local poet summarized the attack with the simple phrase: ''The commodore and his men, wounded a pig and killed a hen.''

The defenders of Lewes were brave and resourceful, and while this small battle in Lewes may not have changed the course of the war, it demonstrated to the British—and to the world—that Americans were united and strong in defense of their country.

The War of 1812 was a significant turning point in our natural development. It solidified our independence and marked the emergence of our Nation as a great power. I am pleased to cosponsor Senator LEVIN's resolution to issue a stamp commemorating the War of 1812.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2624. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2625. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2624. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 19 and 20, insert the following:

SEC. 220. Of the amounts appropriated for the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) under the heading ''STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'' under the heading ''OFFICE OF JUSTICE PROGRAMS'' under the heading ''STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES'' under title II of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 579), the amounts to be made available to Genesee County, Michigan for assistance for individuals transitioning from prison in Genesee County, Michigan pursuant to the joint statement of managers accompanying that Act shall be made available to My Brother's Keeper of Genesee County, Michigan to provide assistance for individuals transitioning from prison in Genesee County, Michigan.

SA 2625. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Department of Commerce and Justice, and Science and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 170 at the end of line 19 insert the following:

SEC. XXX. Section 151 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public law 101–246, as amended by section 11005 of Public Law 107–273; 5 U.S.C. 5928 note) is amended:

(a) by striking ''or'' after ''Drug Enforcement Administration'' and inserting '', the''; and

(b) inserting after ''Federal Bureau of Investigation'': the Bureau of Alcohol, Tobacco, Firearms and Explosives or the United States Marshals Service''.

NOTICE OF HEARING

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting has been scheduled before Committee on Energy and Natural Resources. The business meeting will be held on Thursday, October 8, 2009, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building, immediately preceding the full committee hearing.

The purpose of the business meeting is to consider pending nominations.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3326

Mr. DURBIN. I ask unanimous consent that at 2:15 p.m. Tuesday, October 26, the Senate proceed to a period of morning business until 3:15 p.m., with the time equally divided and controlled between the leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each; that at 3:15 p.m., the Senate then resume consideration of H.R. 3326, for debate only until 3:45 p.m, with the time equally divided and controlled between Senators INOUYE and COCHRAN or their designees; that at 3:45 p.m., the Senate then proceed to vote in relation to the pending amendments in the following order, with the other provisions of the order of October 1, 2009, remaining in effect: Barrasso No. 2567; Franken No. 2588; Bond No. 2596; Coburn No. 2565; Coburn No. 2566; Sanders No. 2601; Inhofe No. 2618; McCain No. 2580; McCain No. 2584; Inouye No. 2623, with a side-by-side from Senator McCain No.

2560; McCain No. 2583; Lieberman-Sessions No. 2616, as modified.

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

Mr. DURBIN. Mr. President, I would like to amend my earlier unanimous consent request: that the Inouye amendment No. 2623, which I read seriatim in the list, have a side-by-side of Senator McCain No. 2560; and then Senator McCain amendment No. 2560; McCain No. 2583; Lieberman-Sessions No. 2616, as modified.

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

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. DURBIN. As in executive session, I ask unanimous consent that on Tuesday, October 6, immediately following any leader remarks, the Senate proceed to executive session to consider Calendar No. 186, the nomination of Thomas Perez to be Assistant Attorney General, and that once the nomination is reported, the cloture motion which will be at the desk be stated; further, that the reading of the names then be waived and the mandatory quorum be waived; that immediately thereafter, the Senate debate the nomination until 12:15 p.m., with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that at 12:15 p.m., the Senate proceed to vote on the motion to invoke cloture on the nomination; that if cloture is invoked on the nomination, then all postcloture time be yielded back and the Senate then vote immediately on confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table; that no further motions be in order, the President be immediately notified of the Senate's action, and the Senate resume legislative session; provided further that if cloture is not invoked on the nomination, then a motion to reconsider the vote by which cloture was not invoked on the nomination be considered entered and the Senate then resume legislative session and recess until 2:15 p.m.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 463, 465, 466, and 467; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order; and that any statements related to the nominations be printed in the RECORD; provided further that the President be immediately notified of the Senate's action and the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HOMELAND SECURITY

Richard Serino, of Massachusetts, to be Deputy Administrator, Federal Emergency Management Agency, Department of Homeland Security.

FEDERAL MEDIATION AND CONCILIATION SERVICE

George H. Cohen, of Virginia, to be Federal Mediation and Conciliation Director.

DEPARTMENT OF EDUCATION

Alexa E. Posny, of Kansas, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.

Brenda Dann-Messier, of Rhode Island, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

SAFE PRISONS COMMUNICATIONS ACT OF 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 166, S. 251.

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

The bill clerk read as follows:

S. 251

A bill (S. 251) to amend the Communications Act of 1934 to permit targeted interference with mobile radio services within facilities.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Prisons Communications Act of 2009''.

SEC. 2. INTERFERENCE PERMITTED WITHIN CORRECTIONAL FACILITIES.

Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 333 the following:

''SEC. 333A. JAMMING UNAUTHORIZED WIRELESS DEVICES IN CORRECTIONAL FACILITIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, after the Commission has promulgated final regulations under sections 3 and 4 of the Safe Prisons Communications Act of 2009, the Commission may authorize the supervisory authority of a correctional facility to operate a jamming system within the correctional facility to prevent, jam, or otherwise interfere with unauthorized wireless communications within the facility by individuals held in the facility. In order to obtain such authority, a supervisory authority shall file a notice of intent under subsection (b), file a petition for such authority under subsection (c), and comply with the requirements of this section and the regulations under this section.

''(b) NOTICE OF INTENT PROCEDURE.—

''(1) FILING WITH THE COMMISSION.—Not less than 30 days before filing a petition for authority to operate a jamming system under subsection (c), a correctional facility supervisory authority shall file with the Commission a notice of intent to seek such authority. The notice shall identify the correctional facility to which the authority will relate and be in such form, and contain such information, as the Commission may require.

''(2) NOTIFICATION OF PUBLIC SAFETY AGENCIES AND COMMERCIAL MOBILE SERVICE PROVIDERS.—Within 10 days after receiving a notice under paragraph (1), the Commission shall—

''(A) notify in writing each public safety agency and each commercial mobile service provider serving the area in which the correctional facility to which the notice of intent relates is located; and

''(B) provide the name and address of each such agency and provider so notified by the Commission to the supervisory authority that filed the notice of intent.

''(3) CONSULTATION AND ACCESS.—Before filing a petition for jamming authority under this section, a supervisory authority—

''(A) shall consult with the public safety agencies and commercial mobile service providers identified by the Commission under paragraph (2)(B), if such consultation is requested, to determine—

''(i) the types of equipment used by those agencies and providers in the area in which the correctional facility is located;

''(ii) the locations of towers and facilities containing wireless transmission equipment belonging to those agencies and providers in that area, to the extent those agencies and providers voluntarily provide such information; and

''(iii) the frequencies used by those agencies and providers in that area;

''(B) shall provide access, upon request and in the discretion of the supervisory authority, by those agencies and providers to the outer perimeter of the correctional facility for the purpose of taking measurements and conducting testing to determine signal strength and the potential for interference with their transmissions or service; and

''(C) may solicit recommendations from those agencies and providers on the selection, installation, and configuration of a jamming system and jamming devices.

''(4) EXTENSION OF CONSULTATION PERIOD.—Upon good cause shown, the Commission may require a supervisory authority that has filed a notice of intent under this subsection to provide an additional period of up to 15 days for the activities described in paragraph (3) before submitting a petition for jamming authority to the Commission.

''(c) PETITION PROCEDURE.—

''(1) IN GENERAL.—After completing the consultation process provided under subsection (b)(3) (if such consultation was requested), a supervisory authority may file a petition with the Commission requesting authority to install and operate a jamming system within a correctional facility under the supervisory authority's jurisdiction.

''(2) FEE.—The Commission may not charge a filing fee for a petition under this section.

''(3) NOTIFICATION OF PUBLIC SAFETY AGENCIES AND COMMERCIAL MOBILE SERVICE PROVIDERS.—

''(A) PUBLIC SAFETY AGENCIES.—Upon receipt of a petition under paragraph (1), the Commission shall provide a copy of the petition to each public safety agency serving the area that includes the correctional facility to which the petition applies.

''(B) CMS PROVIDERS.—Upon receipt of a petition under paragraph (1), the Commission shall provide a copy of the petition to each commercial mobile service provider serving the area that includes the correctional facility to which the petition applies.

''(C) CONTENT OF NOTICE.—The notice shall include a detailed description of the jamming system and a list of all jamming devices, including make and model, that the supervisory authority proposes to use at the correctional facility.

''(4) DISPOSITION OF PETITION.—

''(A) In general.—After the Commission has promulgated final regulations under sections 3 and 4 of the Safe Prisons Communications Act of 2009, the Commission shall act on a petition under this subsection within 60 days after the date on which the Commission receives a complete petition.

''(B) DETERMINATION CONSIDERATIONS.—In determining whether to grant requested jamming authority, the Commission—

''(i) shall consider, among other factors it deems appropriate, whether the proposed jamming system would interfere with emergency or public safety agency communications and the extent to which the proposed jamming system may cause harmful interference to commercial mobile service communications outside the boundaries of the correctional facility;

''(ii) shall consider whether the facility in question is located in an urban area (as defined by the Commission for purposes of this subsection); and

''(iii) shall address the potential interference with public safety agency communications and commercial mobile service (as defined in section 332(d)(1)) in such area.

''(C) PUBLIC COMMENT.—Before making a determination under this paragraph, the Commission shall allow interested parties to submit evidence for the record regarding the interference potential of the jamming system a supervisory authority proposes to use at the correctional facility.

''(5) POST-PETITION COORDINATION.—

''(A) FCC NOTIFICATION.—When the Commission approves a petition under this section, the Commission shall notify each public safety agency or commercial mobile service provider serving the area in which the correctional facility to which the petition relates is located.

''(B) COORDINATION REQUEST.—When any such agency or provider is notified by the Commission under subparagraph (A), it shall immediately notify the supervisory authority of the correctional facility if it intends to participate in the coordination under subparagraph (C) or the examination under subparagraph (D).

''(C) INSTALLATION AND CONFIGURATION.—During the 30-day period beginning on the date on which the Commission approves a petition, the correctional facility supervising authority that filed the petition shall, upon request, coordinate the installation and configuration of the jamming system authorized by the Commission with any public safety agency or commercial mobile service provider serving the area in which the correctional facility is located.

''(D) INSPECTION.—Except as provided in subparagraph (E), before commencing the operation of a jamming system authorized by the Commission, the correctional facility supervisory authority that filed the petition shall, upon request, provide access to the correctional facility to any such public safety agency or commercial mobile service provider for the purpose of examining the installation or configuration of the jamming system and jamming devices.

''(E) COMMENCEMENT OF OPERATIONS.—Unless otherwise directed by the Commission, a correctional facility supervisory authority authorized by the Commission to operate a jamming system may commence operation of the system 30 days after the date on which the Commission approves the petition filed by that authority.

''(d) TERMS OF AUTHORIZATION.—

''(1) TERM.—If the Commission grants a petition under this section, the authority granted pursuant to that petition shall be in effect for a term specified by the Commission of not more than 5 years, but shall be renewable by petition.

''(2) TERMINATION OR SUSPENSION OF AUTHORITY.—

''(A) NOTICE FROM PROVIDER.—The Commission shall immediately suspend authorization granted under this section with respect to a correctional facility upon receiving written notice from a commercial mobile service provider, supported by affidavit and such documentation as the Commission may require, stating that use of a jamming device by or at such correctional facility is interfering with commercial mobile service, or is otherwise preventing or jamming such communications (other than within the correctional facility).

''(B) BASIS FOR NOTICE.—In establishing the requirements for the affidavit in subparagraph (A) and the necessary supporting documentation, the Commission shall require, at a minimum, that the commercial mobile service provider perform actual testing and measurements in the area near the correctional facility and submit the results to the Commission. Notice pursuant to subparagraph (A) may not be predicated exclusively on customer complaints or trouble reports unsupported by relevant technical analysis suggesting interference.

''(C) NOTICE FROM PUBLIC SAFETY LICENSEE.—The Commission shall immediately suspend an authorization granted under this section with respect to a correctional facility upon receiving written notice from a public safety agency, supported by affidavit and such documentation as the Commission may require, stating that use of a device by or at such correctional facility is interfering with public safety agency communications systems or otherwise preventing or jamming communications on that system, and describing the nature of the interference.

''(D) DEADLINE FOR ACTION ON NOTICE.—Within 90 days after receiving notice under subparagraph (A) or subparagraph (C), the Commission shall conclude an investigation to determine whether the jamming device authorized for use at the correctional facility is causing such interference and, based on its findings and conclusions, may issue an order reinstating, modifying, or terminating the authorization.

''(E) NONCOMPLIANT USAGE.—If the Commission has reason to believe that a correctional facility for which an authorization has been granted under this section is not in compliance with the regulations under this section, the Commission shall immediately suspend the authorization until it can make a determination with respect to such compliance after notice and an opportunity for a hearing.

''(3) REVOCATION.—The Commission may revoke an authorization under this section for willful or repeated violations, or failure to observe the requirements, of the terms of the authorization or the regulations promulgated by the Commission under this section.

''(4) INTERIM USAGE.—If the Commission initiates a suspension or a revocation proceeding under this subsection, it shall prohibit use of an authorized jamming system or device at the correctional facility during the pendency of any such proceeding.

''(e) LIMITATIONS ON AUTHORIZATION.—

''(1) TRANSFER PROHIBITED.—A correctional facility supervisory authority authorized by the Commission to operate a jamming system may not transfer the ownership or right to use the jamming system or associated jamming devices to any third party for use inside or outside the area of the correctional facility for which the authorization was granted.

''(2) LOCATION; USE BY OTHER PARTIES.—The Commission shall require any correctional facility supervisory authority to prevent the use of an authorized jamming system (including any jamming device used by the system)—

''(A) in any location other than the correctional facility where use of the system is authorized; or

''(B) by any entity other than the correctional facility where use of the jamming system is authorized.

''(3) LIMITATIONS ON USE.—The Commission shall require that any correctional facility supervisory authority granted authority under this section to operate a jamming system—

''(A) utilize only a jamming device—

''(i) authorized by the Commission; and

''(ii) specifically approved by the Commission for the purposes of this section;

''(B) operate the jamming device at the lowest possible transmission power necessary to prevent, jam, or interfere with wireless communications by within the facility by individuals held in the facility;

''(C) operate the device on a directionalized basis, and utilizing all other reasonable interference-limiting capabilities, in a manner that does not interfere with public safety agency communications or lawful commercial wireless communications that originate and terminate inside or outside the area of the correctional facility;

''(D) operate the jamming device only in the frequencies necessary to prevent, jam, or interfere with wireless communications within the correctional facility;

''(E) have a documented method of controlling custody of such devices and ensure that any jamming device operated pursuant to the authority is destroyed upon expiration of the authority, or at such time as a jamming device is removed from service for any other reason, including replacement by another device;

''(F) have a documented method of inspecting the jamming system on a quarterly basis to ensure proper functioning, and a documented method to limit access to the system to personnel specifically designated by the correctional facility;

''(G) install the jamming system in a secure area that is inaccessible to individuals held in the facility and connect the system to a permanent power supply with back-up power sources; and

''(H) have a documented method of sealing or locking the jamming system so as to prevent tampering.

''(4) DESTRUCTION OF UNUSED OR EXPIRED JAMMING DEVICES; NOTIFICATION OF ADDITIONAL JAMMING DEVICE ACQUISITIONS.—Any correctional facility supervisory authority authorized to operate a jamming system shall—

''(A) destroy a jamming device within 60 days after the date on which such authorization expires unless a petition is pending for renewal of the authorization;

''(B) destroy any such jamming device that is permanently removed from service;

''(C) certify such destruction to the Commission; and

''(D) notify the Commission upon the acquisition of any jamming device that replaces a destroyed device.

''(f) DATABASE.—The Commission shall maintain an electronic database containing a copy of each notice of intent and each petition received by it under this section and the disposition thereof. The Commission shall update the database at least monthly and, to the extent consistent with public safety and welfare, shall make the contents of the database available upon request to a commercial mobile service provider or public safety agency.

''(g) DEFINITIONS.—In this section:

''(1) COMMERCIAL MOBILE SERVICE PROVIDER.—The term 'commercial mobile service provider' means a person providing commercial mobile service (as defined in section 332(d)(1)).

''(2) CORRECTIONAL FACILITY.—In this subsection, the term 'correctional facility' means a jail, prison, penitentiary, or other correctional facility.

''(3) JAMMING DEVICE.—The term 'jamming device' means a radio signal generating device used as part of a jamming system designed to disrupt, prevent, interfere with, or jam wireless communications.

''(4) JAMMING SYSTEM.—The term 'jamming system' means a system of radio signal generating and processing equipment and antennas designed to disrupt, prevent, interfere with, or jam wireless communications within a correctional facility and includes the components and functionality of the system, such as antennas, cabling, and cable elements, the installation, interconnection, and operation of system elements, power levels, and radio frequencies carried on the cables or fed into antennas, the radiation pattern of such antennas, and the location and orientation of the antennas.

''(5) PUBLIC SAFETY AGENCY.—The term 'public safety agency' has the meaning given that term in section 3006(j)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note).

''(6) SUPERVISORY AUTHORITY.—The term 'supervisory authority' means the Director of the

Federal Bureau of Prisons, the chief executive officer of a State (or his or her designee), or the person in charge of a county or local correctional facility not under the authority of the chief executive officer of a State.''.

SEC. 3. FCC RULEMAKING REQUIRED.

Within 180 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a rulemaking proceeding and shall promulgate final regulations governing the use of jamming systems in correctional facilities under section 333A of the Communications Act of 1934 (47 U.S.C. 333A). In the proceeding, the Commission shall—

(1) solicit and consider the recommendations of the National Telecommunications and Information Administration, as well as 1 or more entities with relevant technical expertise in order to develop standards and processes for such jamming systems and jamming devices (as such terms are defined in that section); and

(2) consider all available technologies capable of preventing the operation of unauthorized wireless communications devices in correctional facilities, including those devices that may evade detection by the supervisory authority of such a facility.

SEC. 4. DEVICE CERTIFICATION CRITERIA RULEMAKING.

(a) IN GENERAL.—Within 120 days after the date of enactment of this Act, the Federal Communications Commission shall adopt a final rule establishing criteria for certification for the manufacture, sale, importation, and interstate shipment of devices that may be used pursuant to authorization under section 333A of the Communications Act of 1934 (47 U.S.C. 333A), notwithstanding section 302 of such Act (47 U.S.C. 302). In carrying out the requirements of this subsection, the Commission shall consider whether such devices can effectively prevent, jam, or interfere with wireless communications within a correctional facility (as defined in section 333A(g)(2) of that Act (47 U.S.C. 333A(g)(2))) without causing harmful interference with commercial mobile services between points outside facility boundaries, or public safety agency wireless communications services between points inside, pursuant to a public safety agency responding to an incident in a correctional facility, and outside facility boundaries. The regulations shall require, at a minimum, that any such device—

(1) operate at the lowest technically feasible transmission power that will permit correctional facility staff to prevent, jam, or interfere with wireless communications within the geographic boundaries of a correctional facility by individuals held in the facility;

(2) be capable of directionalized operation and limited to approved frequencies;

(3) comply with any other technical standards deemed necessary or appropriate by the Commission to ensure that the device does not create interference to other than the targeted wireless communications;

(4) be marketed and sold only to correctional facility supervisory authority (as defined in section 333A(g) of the Communications Act of 1934 (47 U.S.C. 333A(g)) authorized by the Commission under section 333A) of that Act (47 U.S.C. 333A) to possess and operate such a device; and

(5) is capable of being shut off from jamming public safety agency communications within and around a correctional facility when a public safety agency is responding to an incident at the facility, such as a fire, explosion, medical emergency, or otherwise.

(b) TECHNICIAN CREDENTIALING.—As part of the rulemaking proceeding required by subsection (a), the Commission shall seek public comment on whether to establish minimum training, certification, and eligibility requirements for technicians qualified to work on jamming systems installed and operated by a supervisory authority. The Commission may establish such training, certification, and eligibility criteria as part of the final rule adopted under subsection (a).

(c) CERTIFICATION PROCESS.—The Commission shall conduct field testing of proposed devices to determine whether they can operate without causing harmful interference with commercial mobile service communications outside the boundaries of such a correctional facility or public safety agency wireless communications inside, pursuant to a public safety entity responding to an incident in a correctional facility, and outside the boundaries of such a correctional facility. The Commission shall conduct such testing through a public testing process and program. After the date on which the final rule promulgated under subsection (a) is published in the Federal Register, the Commission shall grant or deny an application for certification of a device described in subsection (a) within 120 calendar days of receiving an application therefor.

(d) LIST OF DEVICES.—The Commission shall maintain a list of all approved devices on its web site including the make and model of each approved device and its technical specifications and operating parameters.

Mr. DURBIN. I ask unanimous consent that the committee-reported substitute be agreed to; the bill, as amended, be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 251), as amended, was ordered to be engrossed for a third reading, was read the third time and passed.

PHARMACY DME ACCREDITATION DELAY

Mr. DURBIN. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3663, which was received from the House.

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

The bill clerk read as follows:

A bill (H.R. 3663) to amend title XVIII of the Social Security Act to delay the date on which the accreditation requirement under the Medicare Program applies to suppliers of durable medical equipment that are pharmacies.

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

Mr. DURBIN. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 3663) was ordered to a third reading, was read the third time, and passed.

REAFFIRMING HISTORIC TIES BETWEEN THE UNITED STATES AND THE NETHERLANDS

Mr. DURBIN. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H. Con. Res. 178 and the Senate proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 178) expressing the sense of Congress that we reaffirm the historic ties between the United States and the Netherlands by recognizing the Quadricentennial celebration of the discovery of the Hudson River and honoring the enduring values of the settlers of New Netherland that continue to permeate American society.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 178) was agreed to.

The preamble was agreed to.

WORLD MRSA DAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 301, submitted earlier today.

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

The bill clerk read as follows:

A bill (S. Res. 301) designating October 2, 2009, as ''World MRSA Day.''

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 301) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 301

Whereas methicillin-resistant Staphylococcus aureus (MRSA) causes deadly infections in patients that are receiving treatment in health care facilities and affects numerous individuals within our Nation's communities;

Whereas the Centers for Disease Control and Prevention has estimated that hospital-acquired MRSA infections killed more than 19,000 individuals in the United States in 2006;

Whereas patient and consumer advocacy organizations around the world are lending their voices to a call for leadership and an

international commitment to preventing and eradicating MRSA, a disease that has reached pandemic levels and is spreading at an alarming rate;

Whereas patient and consumer advocacy organizations are calling upon health care officials and government leaders to step up and take a more comprehensive approach to stopping MRSA through implementation of a broad and proactive prevention program;

Whereas the MRSA Survivors Network, the first consumer organization in the United States to raise awareness concerning the MRSA epidemic and other such multi-drug resistant health care-acquired infections, has announced that October 2, 2009, has been designated as ''World MRSA Day'', which shall be commemorated annually on such date; and

Whereas the MRSA Survivors Network has also designated the month of October as ''World MRSA Awareness Month'' in order to call attention to this worldwide epidemic: Now, therefore, be it

Resolved, That the Senate designates October 2, 2009, as ''World MRSA Day''.

CELEBRATE SAFE COMMUNITIES WEEK AND CRIME PREVENTION MONTH

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 302, submitted earlier today.

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

The bill clerk read as follows:

A resolution (S. Res. 302) raising the awareness of the need for crime prevention in communities across the country and expressing support for designation of October 1, 2009 through October 7, 2009 as ''Celebrate Safe Communities Week'' and October as ''Crime Prevention Month.''

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 302) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 302

Whereas communities across the country face localized increases in violence and other crime;

Whereas local law enforcement-community partnerships are an effective tool for prevention crime and addressing the fear of crime;

Whereas the National Sheriffs' Association (NSA) and the National Crime Prevention Council (NCPC) are leading national resources providing community safety and crime prevention tools tested and valued by local law enforcement agencies and communities nationwide;

Whereas the NSA and the NCPC have joined together to create the ''Celebrate Safe Communities'' (CSC) initiative in partnership with the Bureau of Justice Assistance, Office of Justice Programs, Department of Justice;

Whereas in its premiere year, 153 communities in over 32 States and the District of Columbia participated in ''Celebrate Safe Communities'';

Whereas ''Celebrate Safe Communities'' will take place the first week of October 2009 to help kickoff recognition of October as ''Crime Prevention Month'';

Whereas ''Crime Prevention Month'' was established 25 years ago to encourage public education on being alert to criminal activity within their communities;

Whereas ''Celebrate Safe Communities'' is designated to help local communities highlight the importance of law enforcement-community partnerships to keep communities safe places to live, learn, work, and play;

Whereas ''Celebrate Safe Communities'' will enhance the public awareness of vital crime prevention and safety messages and motivate Americans of all ages to learn what they can do to stay safe from crime;

Whereas ''Celebrate Safe Communities'' will help promote year-round support for locally based and law enforcement-led community safety initiatives that help keep families, neighborhoods, schools, and businesses from crime;

Whereas the week of October 1, 2009, through October 7, 2009, would be an appropriate week to designate as ''Celebrate Safe Communities'' Week; and

Whereas the month of October is designated ''Crime Prevention Month'': Now, therefore, be it

Resolved, That the Senate

(1) supports the designation of October 1 through October 7, 2009 as ''Celebrate Safe Communities Week'';

(2) supports the designation of October 2009 as ''Crime Prevention Month'';

(3) commends the efforts of the thousands of local law enforcement agencies and their countless community partners educating and engaging residents of all ages in the fight against crime;

(4) asks communities across the country to consider how ''Celebrate Safe Communities'' can help them highlight local successes in the fight against crime;

(5) encourages the National Sheriffs' Association and the National Crime Prevention Council to continue to promote through ''Celebrate Safe Communities'' and year-round, individual and collective action, in collaboration with law enforcement and other supporting local agencies, to reduce crime and build safer communities throughout the United States; and

(6) encourages government agencies, civic groups, schools, businesses, and youth organizations to educate the public, showcase their accomplishments, and explore new partnerships during ''Crime Prevention Month''.

MEASURE READ THE FIRST TIME—S. 1751

Mr. DURBIN. Mr. President, I understand that there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill.

The bill clerk read as follows:

A bill (S. 1751) to prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now or any other entity which has been indicted for or convicted of violations of laws governing election administration or campaign financing.

Mr. DURBIN. Mr. President, I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Mr. President, it is my understanding the bill will be read for the second time on the next legislative day.

The PRESIDING OFFICER. The Senator is correct.

ORDERS FOR TUESDAY, OCTOBER 6, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. Tuesday, October 6; that following the prayer and 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 then proceed to executive session to consider the nomination of Thomas Perez, to be Assistant Attorney General, as provided for under the previous order.

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

PROGRAM

Mr. DURBIN. Mr. President, Senators should expect the first vote of the day to begin at approximately 12:15 p.m. tomorrow. That vote will be on the motion to invoke cloture on the Perez nomination.

Following the cloture vote, the Senate will recess until 2:15 p.m. to allow for the weekly caucus luncheons. Then, after the recess, there will be a period of morning business until 3:15 p.m. Following morning business, the Senate will resume consideration of the Defense appropriations bill. Under a previous order, Senators should expect up to 14 rollcall votes in relation to the Defense appropriations bill to begin at approximately 3:45 p.m.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:21 p.m., adjourned until Tuesday, October 6, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF THE TREASURY

CHARLES COLLYNS, OF MARYLAND, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE CLAY LOWERY RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD SORIAN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE CHRISTINA H. PEARSON, RESIGNED.

DEPARTMENT OF STATE

JAMES B. WARLICK, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BULGARIA.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

PATRICK ALFRED CORVINGTON, OF MARYLAND, TO BE CHIEF EXECUTIVE OFFICER OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, VICE DAVID EISNER.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PAMELA S. HYDE, OF NEW MEXICO, TO BE ADMINISTRATOR OF THE SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE TERRY L. CLINE.

EXECUTIVE OFFICE OF THE PRESIDENT

DANIEL I. GORDON, OF THE DISTRICT OF COLUMBIA, TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, VICE PAUL A. DENETT.

DEPARTMENT OF JUSTICE

SUSAN B. CARBON, OF NEW HAMPSHIRE, TO BE DIRECTOR OF THE VIOLENCE AGAINST WOMEN OFFICE, DEPARTMENT OF JUSTICE, VICE CYNTHIA DYER, RESIGNED.

JOHN H. LAUB, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF JUSTICE, VICE DAVID W. HAGY, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate, October 5, 2009:

DEPARTMENT OF HOMELAND SECURITY

RICHARD SERINO, OF MASSACHUSETTS, TO BE DEPUTY ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY.

FEDERAL MEDIATION AND CONCILIATION SERVICE

GEORGE H. COHEN, OF VIRGINIA, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR.

DEPARTMENT OF EDUCATION

ALEXA E. POSNY, OF KANSAS, TO BE ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION.

BRENDA DANN-MESSIER, OF RHODE ISLAND, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.